SUBCHAPTER VI—GENERAL PROVISIONS

§§ 6231 to 6235. Omitted

CODIFICATION

Sections 6231 to 6235 were omitted pursuant to section 6251 of this title which provided that the authority under this chapter terminated on Oct. 1, 2001.

Section 6231, Pub. L. 103–239, title VI, § 601, May 4, 1994, 108 Stat. 603, related to requirements applicable to programs under this chapter.

Section 6232, Pub. L. 103–239, title VI, § 602, May 4, 1994, 108 Stat. 604, related to sanctions.

Section 6233, Pub. L. 103–239, title VI, § 603, May 4, 1994, 108 Stat. 604, related to State authority.

Section 6234, Pub. L. 103–239, title VI, § 604, May 4, 1994, 108 Stat. 605, related to prohibition on Federal mandates, direction, and control.

Section 6235, 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, authorized appropriations.

SUBCHAPTER VII—TECHNICAL PROVISIONS

§ 6251. Omitted

CODIFICATION

Section, Pub. L. 103–239, title VIII, § 802, May 4, 1994, 108 Stat. 608, provided that the authority under this chapter terminated on Oct. 1, 2001.

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8281 to 8284. Repealed.

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8311, 8312. Repealed.

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8331, 8332. Repealed.

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SUBCHAPTER XI—COORDINATED SERVICES

8401 to 8407. Repealed.

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

8501 to 8513. Repealed.

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8671 to 8678. Transferred.

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8701. Transferred.

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8851 to 8857. Repealed.

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8881. Repealed.

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8891 to 8904. Repealed.

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PART F—GUN POSSESSION

8921 to 8923. Repealed.

PART G—EVALUATIONS

8941. Repealed.

PART H—SENSE OF CONGRESS

8961, 8962. Repealed.

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The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as Pub.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 was subsequently extensively revised and restated by Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, and amended by Pub. L. 104–5, Mar. 23, 1995, 109 Stat. 72; Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 186; Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321; Pub. L. 104–140, May 2, 1996, 110 Stat. 1327; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105; Pub. L. 104–195, Sept. 16, 1996, 110 Stat. 2379; Pub. L. 104–201, Sept. 23, 1996, 110 Stat. 2422; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009; Pub. L. 105–18, June 12, 1997, 111 Stat. 158; Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1467; Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105–278, Oct. 22, 1998, 112 Stat. 2682; Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076; Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1135; Pub. L. 106–113, Nov. 29, 1999, 113 Stat. 1501; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654; Pub. L. 106–400, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763; Pub. L. 107–20, July 24, 2001, 115 Stat. 155, and is classified to section 6301 et seq. of this title. Titles I to VII and IX of the Act are shown, herein, however, as having been added by Pub. L. 107–110 without reference to such intervening amendments because of the extensive amendments, renumbering, and reorganization of these provisions by Pub. L. 107–110.

SUBCHAPTER I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

CODIFICATION

Title I of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title I is shown, herein, as having been added by Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding this chapter.

§ 6301. Statement of purpose

The purpose of this subchapter is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state[1] academic assessments. This purpose can be accomplished by—

(1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;

(2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;

(3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

(4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;

(5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;

(6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;

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

(8) providing children an enriched and accelerated educational program, including the use

[1] So in original. Probably should be capitalized.

of schoolwide programs or additional services that increase the amount and quality of instructional time;

(9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;

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

(11) coordinating services under all parts of this subchapter with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and

(12) affording parents substantial and meaningful opportunities to participate in the education of their children.

(Pub. L. 89–10, title I, §1001, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1439.)

PRIOR PROVISIONS

A prior section 6301, Pub. L. 89–10, title I, §1001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, declared policy and stated purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1001 of Pub. L. 89–10 was classified to section 2701 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Another prior section 1001 of Pub. L. 89–10 was renumbered section 9001 and was classified to section 3381 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Pub. L. 107–110, §5, Jan. 8, 2002, 115 Stat. 1427, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this Act [see Tables for classification], this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act [Jan. 8, 2002].

''(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, this Act, and the amendments made by this Act, shall take effect on July 1, 2002.

''(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary on a competitive basis, this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under those programs for fiscal year 2002.

''(d) IMPACT AID.—With respect to title VIII (Impact Aid) [probably means title VIII of Pub. L. 89–10, 20 U.S.C. 7701 et seq.], this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under that title for fiscal year 2002.''

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, §563(a), Jan. 2, 2013, 126 Stat. 1744, provided that: ''This section [amending sections 7702, 7703, and 7710 of this title and enacting provisions set out as a note under section 7702 of this title] may be cited as the 'Impact Aid Improvement Act of 2012'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–110, §1, Jan. 8, 2002, 115 Stat. 1425, provided that: ''This title [probably means Pub. L. 107–110, see Tables for classification] may be cited as the 'No Child Left Behind Act of 2001'.''

SHORT TITLE OF 2000 AMENDMENT

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, Telecommunications, 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 AMENDMENT

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 AMENDMENT

Pub. L. 103–382, §1, Oct. 20, 1994, 108 Stat. 3518, 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 AMENDMENT

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, as amended by Pub. L. 107–110, § 6(1), Jan. 8, 2002, 115 Stat. 1427, 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, which provided that subpart 2 (§§ 10971–10978) of part J of title X of Pub. L. 89–10, enacting subpart 2 of part J of former subchapter X of this chapter, could be cited as the ''Rural Education Achievement Program'', was repealed by Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

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, which provided that part L (§§ 10999A–10999L) of title X of Pub. L. 89–10, enacting part L of former subchapter X of this chapter, could be cited as the ''Physical Education for Progress Act'', was repealed by Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

CONTINUATION OF AWARDS

Pub. L. 107–110, title II, § 202, Jan. 8, 2002, 115 Stat. 1688, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in the case of—

''(1) a person or entity that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded funds appropriated under the Department of Education Appropriations Act, 2001 [Pub. L. 106–554, § 1(a)(1) [title III], see Tables for classification] for new teacher recruitment initiatives; or

''(2) a person or agency that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded a grant or contract under part K of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8331 et seq.),

the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.''

Pub. L. 107–110, title V, § 502, Jan. 8, 2002, 115 Stat. 1873, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of any agency or consortium that was awarded a grant under section 5111 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7211) or any person or agency that was awarded a contract or grant under part B, D, or E of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8031 et seq., 8091 et seq., 8131 et seq.), prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

''(b) SPECIAL RULE.—Notwithstanding any other provision of this Act, any person or agency that was awarded or entered into a grant, contract, or cooperative agreement under part B of title V of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7231 et seq.), prior to the date of enactment of this Act [Jan. 8, 2002] shall continue to receive funds in accordance with the terms of such grant, contract, or agreement until the date on which the grant, contract, or agreement period terminates under such terms.''

Pub. L. 107–110, title X, § 1052, Jan. 8, 2002, 115 Stat. 2083, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of a person or entity that was awarded a grant, relating to preparing tomorrow's teachers to use technology, that was made pursuant to section 3122 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 6832) prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.''

TRANSITION PROVISIONS

Pub. L. 107–110, § 4, Jan. 8, 2002, 115 Stat. 1426, provided that:

''(a) MULTI-YEAR AWARDS.—Except as otherwise provided in this Act [see Tables for classification], the recipient of a multi-year award under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, 20 U.S.C. 6301 et seq., prior to general amendment by Pub. L. 107–110], as that Act was in effect prior to the date of enactment of this Act [Jan. 8, 2002], shall continue to receive funds in accordance with the terms of that award, except that no additional funds may be awarded after September 30, 2002.

''(b) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act, may use funds available to the recipient under that predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure an orderly implementation of programs authorized by this Act, and the amendments made by this Act.

''(c) ORDERLY TRANSITION.—The Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized by this Act, and by the amendments made by this Act, from programs authorized by the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act.''

Pub. L. 103–382, § 3(b), Oct. 20, 1994, 108 Stat. 3519, 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

Pub. L. 103–382, title V, § 561, Oct. 20, 1994, 108 Stat. 4058, 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. 6316, 6317], 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].''

§ 6302. Authorization of appropriations

(a) Local educational agency grants

For the purpose of carrying out part A of this subchapter, there are authorized to be appropriated—

(1) $13,500,000,000 for fiscal year 2002;
(2) $16,000,000,000 for fiscal year 2003;
(3) $18,500,000,000 for fiscal year 2004;
(4) $20,500,000,000 for fiscal year 2005;
(5) $22,750,000,000 for fiscal year 2006; and
(6) $25,000,000,000 for fiscal year 2007.

(b) Reading First

(1) Reading First

For the purpose of carrying out subpart 1 of part B of this subchapter, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) Early Reading First

For the purpose of carrying out subpart 2 of part B of this subchapter, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(3) Even Start

For the purpose of carrying out subpart 3 of part B of this subchapter, there are authorized to be appropriated $260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(4) Improving literacy through school libraries

For the purpose of carrying out subpart 4 of part B of this subchapter, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 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 $410,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

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

For the purpose of carrying out part D of this subchapter, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(e) Federal activities

(1) Sections 6491 and 6492

For the purpose of carrying out sections 6491 and 6492 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Section 6494

(A) In general

For the purpose of carrying out section 6494 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(B) Special rule

Of the funds appropriated pursuant to subparagraph (A), not more than 30 percent may be used for teachers associated with students participating in the programs described in subsections (a)(1), (b)(1), and (c)(1) of this section.

(f) Comprehensive school reform

For the purpose of carrying out part F of this subchapter, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(g) Advanced placement

For the purposes of carrying out part G of this subchapter, there are authorized to be appropriated such sums for fiscal year 2002 and each 5 succeeding fiscal year.

(h) School dropout prevention

For the purpose of carrying out part H of this subchapter, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) up to 10 percent shall be available to carry out subpart 1 of part H of this subchapter for each fiscal year; and

(2) the remainder shall be available to carry out subpart 2 of part H of this subchapter for each fiscal year.

(i) School improvement

For the purpose of carrying out section 6303(g) of this title, there are authorized to be appropriated $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title I, § 1002, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1440.)

PRIOR PROVISIONS

A prior section 6302, 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, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1002 of Pub. L. 89–10 was renumbered section 9002 and was classified to section 3382 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6303. School improvement

(a) State reservations

Each State shall reserve 2 percent of the amount the State receives under subpart 2 of part A of this subchapter for fiscal years 2002 and 2003, and 4 percent of the amount received under such subpart for fiscal years 2004 through 2007, to carry out subsection (b) of this section and to carry out the State's responsibilities under sections 6316 and 6317 of this title, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

(b) Uses

Of the amount reserved under subsection (a) of this section for any fiscal year, the State educational agency—

(1) shall allocate not less than 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring, for activities under section 6316(b) of this title; or

(2) may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

(c) Priority

The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

(1) serve the lowest-achieving schools;

(2) demonstrate the greatest need for such funds; and

(3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest-achieving schools to meet the progress goals in school improvement plans under section 6316(b)(3)(A)(v) of this title.

(d) Unused funds

If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) of this section is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with—

(1) the relative allocations the State educational agency made to those agencies for that fiscal year under subpart 2 of part A of this subchapter; or

(2) section 6338(c) of this title.

(e) Special rule

Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) of this section in any fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2[1] below the amount received by such local educational agency under such subpart for the preceding fiscal year.

(f) Reporting

The State educational agency shall make publicly available a list of those schools that have received funds or services pursuant to subsection (b) of this section and the percentage of students from each school from families with incomes below the poverty line.

(g) Assistance for local school improvement

(1) Program authorized

The Secretary shall award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 6316 of this title.

(2) State allotments

Such grants shall be allotted among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this subchapter. The Secretary shall expeditiously allot a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding January 8, 2002.

(3) Reallocations

If a State does not receive funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (2).

(4) State applications

Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information, as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency submitted such information as part of its State plan under this part. Each State application shall describe how the State educational agency will allo-

[1] So in original. Probably should be ''subpart 2 of part A of this subchapter''.

cate such funds in order to assist the State educational agency and local educational agencies in complying with school improvement, corrective action, and restructuring requirements of section 6316 of this title.

(5) Local educational agency grants

A grant to a local educational agency under this subsection shall be—

(A) of sufficient size and scope to support the activities required under sections 6316 and 6317 of this title, but not less than $50,000 and not more than $500,000 for each participating school;

(B) integrated with other funds awarded by the State under this chapter; and

(C) renewable for two additional 1-year periods if schools are meeting the goals in their school improvement plans developed under section 6316 of this title.

(6) Priority

The State, in awarding such grants, shall give priority to local educational agencies with the lowest-achieving schools that demonstrate—

(A) the greatest need for such funds; and

(B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 6316 of this title.

(7) Allocation

A State educational agency that receives a grant under this subsection shall allocate at least 95 percent of the grant funds directly to local educational agencies for schools identified for school improvement, corrective action, or restructuring to carry out activities under section 6316(b) of this title, or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

(8) Administrative costs

A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such grant funds for administration, evaluation, and technical assistance expenses.

(9) Local awards

Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest-achieving schools the resources necessary to meet goals under school and local educational agency improvement, corrective action, and restructuring plans under section 6316 of this title.

(Pub. L. 89–10, title I, § 1003, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1442.)

PRIOR PROVISIONS

A prior section 6303, Pub. L. 89–10, title I, § 1003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3522, related to reservation and allocation for school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1003 of Pub. L. 89–10 was renumbered section 9003 and was classified to section 3383 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6304. State administration

(a) In general

Except as provided in subsection (b) of this section, to carry out administrative duties assigned under parts A, C, and D of this subchapter, each State may reserve the greater of—

(1) 1 percent of the amounts received under such parts; or

(2) $400,000 ($50,000 in the case of each outlying area).

(b) Exception

If the sum of the amounts appropriated for parts A, C, and D of this subchapter is equal to or greater than $14,000,000,000, then the reservation described in subsection (a)(1) of this section shall not exceed 1 percent of the amount the State would receive, if $14,000,000,000 were allocated among the States for parts A, C, and D of this subchapter.

(Pub. L. 89–10, title I, § 1004, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1444.)

PRIOR PROVISIONS

A prior section 1004 of Pub. L. 89–10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§ 6311. State plans

(a) Plans required

(1) In general

For any State desiring to receive a grant under this part, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this subchapter), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.], the Head Start Act [42 U.S.C. 9831 et seq.], the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], and the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.].

(2) Consolidated plan

A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 7842 of this title.

(b) Academic standards, academic assessments, and accountability

(1) Challenging academic standards

(A) In general

Each State plan shall demonstrate that the State has adopted challenging academic

content standards and challenging student academic achievement 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) Same standards

The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

(C) Subjects

The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005–2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

(D) Challenging academic standards

Standards under this paragraph shall include—

(i) challenging academic 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; and

(ii) challenging student academic achievement standards that—

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

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

(III) describe a third level of achievement (basic) to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

(E) Information

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 academic standards, the State plan shall describe a strategy for ensuring that students are taught the same knowledge and skills in such subjects and held to the same expectations as are all children.

(F) Existing standards

Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after January 8, 2002.

(2) Accountability

(A) In general

Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall—

(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 6316 of this title; and

(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraphs (B) and (C).

(B) Adequate yearly progress

Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

(C) Definition

''Adequate yearly progress'' shall be defined by the State in a manner that—

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The achievement of all public elementary school and secondary school students.

(II) The achievement of—

(aa) economically disadvantaged students;

(bb) students from major racial and ethnic groups;

(cc) students with disabilities; and

(dd) students with limited English proficiency;

except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

(D) Requirements for other indicators

In carrying out subparagraph (C)(vi) and (vii), the State—

(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

(E) Starting point

Each State, using data for the 2001–2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in—

(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

(F) Timeline

Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001–2002 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3).

(G) Measurable objectives

Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which—

(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3) of this section;

(ii) shall be the same for all schools and local educational agencies in the State;

(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

(iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and

(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

(H) Intermediate goals for annual yearly progress

Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall—

(i) increase in equal increments over the period covered by the State's timeline under subparagraph (F);

(ii) provide for the first increase to occur in not more than 2 years; and

(iii) provide for each following increase to occur in not more than 3 years.

(I) Annual improvement for schools

Each year, for a school to make adequate yearly progress under this paragraph—

(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State as-

sessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(16)(A)] and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

(J) Uniform averaging procedure

For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

(i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

(ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding January 8, 2002, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 6316 of this title, or the implementation of assessments under this section.

(iii) The State may use data across grades in a school.

(K) Accountability for charter schools

The accountability provisions under this chapter shall be overseen for charter schools in accordance with State charter school law.

(3) Academic assessments

(A) In general

Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year.

(B) Use of assessments

Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) Requirements

Such assessments shall—

(i) be the same academic assessments used to measure the achievement of all children;

(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

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

(iv) be used only if the State educational agency provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this chapter and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;

(v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

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

(vii) beginning not later than school year 2005–2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the

financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;

(viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;

(ix) provide for—

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

(II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act [20 U.S.C. 1401(3)]) necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards; and

(III) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);

(x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

(xi) 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, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

(xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

(xiii) 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, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and

(xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.

(D) Deferral

A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to January 8, 2002, for 1 year for each year for which the amount appropriated for grants under section 7301b(a)(2) of this title is less than—

(i) $370,000,000 for fiscal year 2002;

(ii) $380,000,000 for fiscal year 2003;

(iii) $390,000,000 for fiscal year 2004; and

(iv) $400,000,000 for fiscal years 2005 through 2007.

(4) Special rule

Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under sec-

tion 6316 of this title if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(I)(i).

(5) State authority

If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

(A) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(B) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt curriculum content and student academic achievement standards, and academic assessments aligned with such standards, which—

(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

(ii) are applicable to all students served by each such local educational agency.

(6) 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 academic 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 academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

(7) Academic assessments of English language proficiency

Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002–2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State educational agency, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.

(8) Requirement

Each State plan shall describe—

(A) how the State educational agency will assist each local educational agency and school affected by the State plan to 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;

(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic achievement standards;

(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 6314(b)(1)(C) and 6315(c)(1)(E) of this title, including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

(D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and

(E) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.

(9) Factors affecting student achievement

Each State plan shall include an assurance that the State educational agency will coordinate and collaborate, to the extent feasible and necessary as determined by the State educational agency, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 6316 of this title and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

(10) Use of academic assessment results to improve student academic achievement

Each State plan shall describe how the State educational agency will ensure that the results of the State assessments described in paragraph (3)—

(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

(c) Other provisions to support teaching and learning

Each State plan shall contain assurances that—

(1) the State educational agency will meet the requirements of subsection (h)(1) of this section and, beginning with the 2002–2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State educational agency 1 additional year if the State educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

(2) the State will, beginning in school year 2002–2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 9622(b)(2) of this title if the Secretary pays the costs of administering such assessments;

(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 6316 and 6317 of this title, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies;

(4) 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, including technical assistance in providing professional development under section 6319 of this title, technical assistance under section 6317 of this title, and technical assistance relating to parental involvement under section 6318 of this title;

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

(B) 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;

(6) the State educational agency will notify local educational agencies and the public of the content and student academic achievement standards and academic 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 6316 of this title, including such corrective actions as are necessary;

(7) 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;

(8) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic achievement;

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

(10) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 6314 of this title;

(11) the State educational agency has involved the committee of practitioners established under section 6573(b) of this title in developing the plan and monitoring its implementation;

(12) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under subchapter VI of this chapter, to obtain waivers under part D of subchapter IX of this chapter, and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

(13) the State educational agency will coordinate activities funded under this part with other Federal activities as appropriate; and

(14) 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 secondary school diploma or its recognized equivalent or who have low levels of literacy.

(d) Parental involvement

Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

(1) be based on the most current research that meets the highest professional and technical standards, on effective parental involvement that fosters achievement to high standards for all children; and

(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement experienced.

(e) Peer review and Secretarial approval

(1) Secretarial duties

The Secretary shall—

(A) establish a peer-review process to assist in the review of State plans;

(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;

(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements 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 of 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 academic content standards or to use specific academic assessment instruments or items.

(2) State revisions

A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.

(f) Duration of the 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 as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.

(2) Additional information

If significant changes are made to a State's plan, such as the adoption of new State academic content standards and State student achievement standards, new academic assessments, or a new definition of adequate yearly progress, such information shall be submitted to the Secretary.

(g) Penalties

(1) Failure to meet deadlines enacted in 1994

(A) In general

If a State fails to meet the deadlines established by the Improving America's Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that the State has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available to the State for State administration and activities under this part in each year until the Secretary determines that the State meets those requirements.

(B) No extension

Notwithstanding any other provision of law, 90 days after January 8, 2002, the Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

(2) Failure to meet requirements enacted in 2001

If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), then the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

(h) Reports

(1) Annual State report card

(A) In general

Not later than the beginning of the 2002–2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1) of this section, a State that receives assistance under this part shall prepare and disseminate an annual State report card.

(B) Implementation

The State report card shall be—

(i) concise; and

(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(C) Required information

The State shall include in its annual State report card—

(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) of this section (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

(ii) information that provides a comparison between the actual achievement levels of each group of students described in sub-

section (b)(2)(C)(v) of this section and the State's annual measurable objectives for each such group of students on each of the academic assessments required under this part;

(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

(iv) the most recent 2-year trend in student achievement in each subject area, and for each grade level, for which assessments under this section are required;

(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

(vi) graduation rates for secondary school students consistent with subsection (b)(2)(C)(vi) of this section;

(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement under section 6316 of this title; and

(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

(D) Optional information

The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools. Such information may include information regarding—

(i) school attendance rates;

(ii) average class size in each grade;

(iii) academic achievement and gains in English proficiency of limited English proficient students;

(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

(v) the extent and type of parental involvement in the schools;

(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests; and

(vii) a clear and concise description of the State's accountability system, including a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with subsection (b)(2) of this section, to determine the status of schools regarding school improvement, corrective action, and restructuring.

(2) Annual local educational agency report cards

(A) Report cards

(i) In general

Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State educational agency may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

(ii) Special rule

If a State educational agency has received an extension pursuant to subsection (c)(1) of this section, then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

(B) Minimum requirements

The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

(i) in the case of a local educational agency—

(I) the number and percentage of schools identified for school improvement under section 6316(c) of this title and how long the schools have been so identified; and

(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

(ii) in the case of a school—

(I) whether the school has been identified for school improvement; and

(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

(C) Other information

A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

(D) Data

A local educational agency or school shall only include in its annual local educational

agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

(E) Public dissemination

The local educational agency shall, not later than the beginning of the 2002–2003 school year, unless the local educational agency has received a 1-year extension pursuant to subparagraph (A), publicly disseminate the information described in this paragraph to all schools in the school district served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

(3) Preexisting report cards

A State educational agency or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State prior to January 8, 2002, may use those report cards for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

(4) Annual State report to the Secretary

Each State educational agency receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

(A) beginning with school year 2002–2003, information on the State's progress in developing and implementing the academic assessments described in subsection (b)(3) of this section;

(B) beginning not later than school year 2002–2003, information on the achievement of students on the academic assessments required by subsection (b)(3) of this section, including the disaggregated results for the categories of students identified in subsection (b)(2)(C)(v) of this section;

(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student academic assessments (including disaggregated results) required under this section;

(D) beginning not later than school year 2002–2003, unless the State has received an extension pursuant to subsection (c)(1) of this section, information on the acquisition of English proficiency by children with limited English proficiency;

(E) the number and names of each school identified for school improvement under section 6316(c) of this title, the reason why each school was so identified, and the measures taken to address the achievement problems of such schools;

(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this subchapter; and

(G) beginning not later than the 2002–2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers in the State, local educational agency, and school.

(5) Report to Congress

The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (4).

(6) Parents right-to-know

(A) Qualifications

At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

(B) Additional information

In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

(i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and

(ii) timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

(C) Format

The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(i) Privacy

Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

(j) Technical assistance

The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality academic assessments, the setting of State standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

(k) Voluntary partnerships

A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section.

(*l*) Construction

Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

(m) Special rule with respect to Bureau-funded schools

In determining the assessments to be used by each operated or funded by BIA school receiving funds under this part, the following shall apply:

(1) Each such school that is accredited by the State in which it is operating shall use the assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment meets the requirements of this section.

(Pub. L. 89–10, title I, § 1111, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1444; amended Pub. L. 107–279, title IV, § 404(d)(1), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title III, § 305(g)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 109–270, § 2(f)(1), Aug. 12, 2006, 120 Stat. 747.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1), 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 Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, 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 Head Start Act, referred to in subsec. (a)(1), 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 Adult Education and Family Literacy Act, referred to in subsec. (a)(1), 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 McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 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 11301 of Title 42 and Tables.

The Education Flexibility Partnership Act of 1999, referred to in subsec. (c)(12), is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, as amended, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

The Improving America's Schools Act of 1994, referred to in subsec. (g)(1)(A), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, as amended. 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.

PRIOR PROVISIONS

A prior section 6311, 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, related to State plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1111 of Pub. L. 89–10 was classified to section 2768 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–270 substituted ''Carl D. Perkins Career and Technical Education Act of 2006'' for ''Carl D. Perkins Vocational and Technical Education Act of 1998''.

2004—Subsec. (b)(2)(I)(ii). Pub. L. 108–446 substituted ''section 612(a)(16)(A)'' for ''section 612(a)(17)(A)''.

2002—Subsec. (c)(2). Pub. L. 107–279 substituted ''section 9622(b)(2) of this title'' for ''section 9010(b)(2) 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 Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Carl D. Perkins Career

and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.], the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], and other Acts, as appropriate.

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 7845 of this title.

(b) Plan provisions

(1) In general

In order to help low-achieving children meet challenging achievement academic standards, each local educational agency plan shall include—

(A) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 6311(b)(3) of this title, that the local educational agency and schools served under this part will use—

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

(ii) to assist in diagnosis, teaching, and learning in the classroom in ways that best enable low-achieving children served under this part to meet State student achievement academic standards and do well in the local curriculum;

(iii) to determine what revisions are needed to projects under this part so that such children meet the State student academic achievement standards; and

(iv) to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 6368 of this title;

(B) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic indicators described in section 6311 of this title for the uses described in such section;

(C) a description of how the local educational agency will provide additional educational assistance to individual students assessed as needing help in meeting the State's challenging student academic achievement standards;

(D) a description of the strategy the local educational agency will use to coordinate programs under this part with programs under subchapter II of this chapter to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with sections 6318 and 6319 of this title;

(E) 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—

(i) Even Start, Head Start, Reading First, Early Reading First, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs; and

(ii) services for children with limited English proficiency, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of subchapter VII of this chapter, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(F) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational Progress in 4th and 8th grade reading and mathematics carried out under section 9622(b)(2) of this title;

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

(H) 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;

(I) 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, and for neglected and delinquent children in community day school programs;

(J) 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;

(K) if 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 Early Reading First, or 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, or an agency operating an Even Start program, an Early Reading First program, or another comparable public early childhood development program;

(L) a description of the actions the local educational agency will take to assist its low-achieving schools identified under section 6316 of this title as in need of improvement;

(M) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 6316 of this title;

(N) a description of how the local educational agency will meet the requirements of section 6319 of this title;

(O) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 6313(c)(3)(A) of this title;

(P) a description of the strategy the local educational agency will use to implement effective parental involvement under section 6318 of this title; and

(Q) where appropriate, a description of how the local educational agency will use funds under this part to support after school (including before school and summer school) and school-year extension programs.

(2) Exception

The academic assessments and indicators described in subparagraphs (A) and (B) of paragraph (1) shall not be used—

(A) in lieu of the academic assessments required under section 6311(b)(3) of this title and other State academic indicators under section 6311(b)(2) of this title; or

(B) to reduce the number of, or change which, schools would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title, if such additional assessments or indicators described in such subparagraphs were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.

(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 program authority and the ability of such schools to consolidate funds from Federal, State, and local sources;

(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 student academic achievement standards;

(D) fulfill such agency's school improvement responsibilities under section 6316 of this title, including taking actions under paragraphs (7) and (8) of section 6316(b) of this title;

(E) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 6320 of this title, and timely and meaningful consultation with private school officials regarding such services;

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

(G) in the case of a local educational agency that 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 education performance standards in effect under section 9836a(a)(1)(B) of title 42;

(H) work in consultation with schools as the schools develop and implement their plans or activities under sections 6318 and 6319 of this title;

(I) comply with the requirements of section 6319 of this title regarding the qualifications of teachers and paraprofessionals and professional development;

(J) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under subchapter IX of this chapter and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

(K) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the State educational agency and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 6316 of this title if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;

(L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

(M) use the results of the student academic assessments required under section 6311(b)(3) of this title, and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this part to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments described in section 6311(b)(3) of this title within 12 years from the end of the 2001–2002 school year;

(N) ensure that the results from the academic assessments required under section 6311(b)(3) of this title will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the ex-

tent practicable, provided in a language that the parents can understand; and

(O) assist each school served by the agency and assisted under this part in developing or identifying examples of high-quality, effective curricula consistent with section 6311(b)(8)(D) of this title.

(2) Special rule

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

(A) shall consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

(B) shall disseminate to local educational agencies the education performance standards in effect under section 9836a(a)(1)(B) of title 42, and such agencies affected 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

Paragraph (1)(G) of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs that are expanded through the use of funds under this part.

(d) Plan development and duration

(1) Consultation

Each local educational agency plan shall be developed in consultation with teachers, principals, administrators (including administrators of programs described in other parts of this subchapter), and other appropriate school personnel, and with parents of children in schools served under this part.

(2) Duration

Each such plan shall be submitted for the first year for which this part is in effect following January 8, 2002, and shall remain in effect for the duration of the agency's participation under this part.

(3) Review

Each local educational agency shall periodically review and, as necessary, revise its plan.

(e) State approval

(1) In general

Each local educational agency plan shall be filed according to a schedule established 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—

(A) enables schools served under this part to substantially help children served under this part meet the academic standards expected of all children described in section 6311(b)(1) of this title; and

(B) meets the requirements of this section.

(3) Review

The State educational agency shall review the local educational agency's plan to determine if such agencies activities are in accordance with sections 6318 and 6319 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.

(g) Parental notification

(1) In general

(A) Notice

Each local educational agency using funds under this part to provide a language instruction educational program as determined in part C of subchapter III of this chapter shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of—

(i) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

(ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

(iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

(iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

(v) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this part are used for children in secondary schools;

(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;

(viii) information pertaining to parental rights that includes written guidance—

(I) detailing—

(aa) the right that parents have to have their child immediately removed from such program upon their request; and

(bb) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(B) Separate notification

In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 6842 of this title for any fiscal year for which part A[1] is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

(2) Notice

The notice and information provided in paragraph (1) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(3) Special rule applicable during the school year

For those children who have not been identified as limited English proficient prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

(4) Parental participation

Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of limited English proficient students to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging State academic achievement standards and State academic content standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

(5) Basis for admission or exclusion

A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

[1] So in original. Probably should be followed by ''of subchapter III of this chapter''.

(Pub. L. 89–10, title I, § 1112, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1462; amended Pub. L. 107–279, title IV, § 404(d)(2), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 109–270, § 2(f)(2), Aug. 12, 2006, 120 Stat. 747; Pub. L. 110–134, § 29(a), Dec. 12, 2007, 121 Stat. 1448.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1), 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 Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, 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 McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 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 11301 of Title 42 and Tables.

The Education Flexibility Partnership Act of 1999, referred to in subsec. (c)(1)(J), is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, as amended, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

PRIOR PROVISIONS

A prior section 6312, Pub. L. 89–10, title I, § 1112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3529, related to local educational agency plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2007—Subsec. (c)(1)(G). Pub. L. 110–134, § 29(a)(1), substituted ''education performance standards in effect under section 9836a(a)(1)(B) of title 42'' for ''performance standards established under section 9836a(a) of title 42''.

Subsec. (c)(2)(B). Pub. L. 110–134, § 29(a)(2), substituted ''education performance standards in effect under section 9836a(a)(1)(B) of title 42'' for ''Head Start performance standards as in effect under section 9836a(a) of title 42''.

2006—Subsec. (a)(1). Pub. L. 109–270 substituted ''Carl D. Perkins Career and Technical Education Act of 2006'' for ''Carl D. Perkins Vocational and Technical Education Act of 1998''.

2002—Subsec. (b)(1)(F). Pub. L. 107–279 substituted ''section 9622(b)(2) of this title'' for ''section 9010(b)(2) 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 served by 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, 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;

(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

(D) 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 6321(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)(D), the number of children attending private elementary schools 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 subparagraph (A).

(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 subsections (a) and (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) In general

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) Exception

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) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

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

(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.

(4) Financial incentives and rewards reservation

A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under subchapter II of this chapter, and not more than 5 percent of those funds received by the local educational agency under subpart 2 of this part, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for school improvement, corrective action, and restructuring under section 6316(b) of this title for the purpose of attracting and retaining qualified and effective teachers.

(Pub. L. 89–10, title I, § 1113, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1469.)

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.

PRIOR PROVISIONS

A prior section 6313, 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, related to eligible school attendance areas, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6314. Schoolwide programs

(a) Use of funds for schoolwide programs

(1) In general

A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

(2) Identification of students not required

(A) In general

No school participating in a schoolwide program shall be required—

(i) to identify particular children under this part as eligible to participate in a schoolwide program; or

(ii) to provide services to such children that are supplementary, as otherwise required by section 6321(b) of this title.

(B) Supplemental funds

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.

(3) Exemption from statutory and regulatory requirements

(A) Exemption

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 (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], except as provided in section 613(a)(2)(D) of such Act [20 U.S.C. 1413(a)(2)(D)]), or any discretionary grant program administered by the Secretary, to support schoolwide pro-

grams if the intent and purposes of such other programs are met.

(B) Requirements

A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, 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 educational agencies or local educational agencies that apply to the receipt of funds from such programs.

(C) Records

A school that consolidates and uses funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(4) 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 6319 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 a schoolwide program

(1) In general

A schoolwide program shall include the following components:

(A) A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 6399(2) of this title) that is based on information which includes the achievement of children in relation to the State academic content standards and the State student academic achievement 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 academic achievement described in section 6311(b)(1)(D) of this title;

(ii) use effective methods and instructional strategies that are based on scientifically based research that—

(I) strengthen the core academic program in the school;

(II) 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

(III) include strategies for meeting the educational needs of historically underserved populations;

(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards 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, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

(cc) the integration of vocational and technical education programs; and

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

(iv) are consistent with, and are designed to implement, the State and local improvement plans, if any.

(C) Instruction by highly qualified teachers.

(D) In accordance with section 6319 of this title and subsection (a)(4) of this section, high-quality and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the State's student academic achievement standards.

(E) Strategies to attract high-quality highly qualified teachers to high-need schools.

(F) Strategies to increase parental involvement in accordance with section 6318 of this title, such as family literary services.

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

(H) Measures to include teachers in the decisions regarding the use of academic assessments described in section 6311(b)(3) of this title in order to provide information on, and to improve, the achievement of individual students and the overall instructional program.

(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 6311(b)(1) of this title shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

(J) Coordination and integration of Federal, State, and local services and programs, including programs supported under this

chapter, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

(2) Plan

(A) In general

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 on the day before January 8, 2002), in consultation with the local educational agency and its school support team or other technical assistance provider under section 6317 of this title, a comprehensive plan for reforming the total instructional program in the school that—

(i) describes how the school will implement 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 educational agency and local educational agency programs and other Federal programs under subsection (a)(3) of this section that will be consolidated in the schoolwide program; and

(iv) describes how the school will provide individual student academic assessment results in a language the parents can understand, including an interpretation of those results, to the parents of a child who participates in the academic assessments required by section 6311(b)(3) of this title.

(B) Plan development

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 section 6317 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 January 8, 2002, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

(ii) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators (including administrators of programs described in other parts of this subchapter), and, if appropriate, pupil services personnel, technical assistance providers, school staff, 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 in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(v) if appropriate, developed in coordination with programs under Reading First, Early Reading First, Even Start, the Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.], and the Head Start Act [42 U.S.C. 9831 et seq.].

(c) Prekindergarten program

A school that is eligible for a schoolwide program under this section may use funds made available under this part to establish or enhance prekindergarten programs for children below the age of 6, such as Even Start programs or Early Reading First programs.

(Pub. L. 89–10, title I, § 1114, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1471; amended Pub. L. 109–270, § 2(f)(3), Aug. 12, 2006, 120 Stat. 747.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(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 Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2)(B)(v), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, 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 Head Start Act, referred to in subsec. (b)(2)(B)(v), 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.

PRIOR PROVISIONS

A prior section 6314, 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, related to schoolwide programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2006—Subsec. (b)(2)(B)(v). Pub. L. 109–270 substituted "the Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Technical Education Act of 1998".

§ 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 serving such school 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) In general

The eligible population for services under this section 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 at which the local educational agency provides a free public education.

(B) Eligible children from eligible population

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 academic achievement 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 2 shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) Children included

(A) In general

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.

(B) Head Start, Even Start, or Early Reading First children

A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start, Even Start, or Early Reading First program, or in preschool services under this subchapter, is eligible for services under this part.

(C) Part C children

A child who, at any time in the 2 years preceding the year for which the determination is made, received services under part C of this subchapter is eligible for services under this part.

(D) Neglected or delinquent children

A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this part.

(E) Homeless children

A child who is homeless and attending any school served by the local educational agency is eligible for services under this part.

(3) Special rule

Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.

(c) Components of a 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 challenging student academic achievement 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's challenging student academic achievement standards expected for all children;

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

(C) use effective methods and instructional strategies that are based on scientifically based research that strengthens the core academic program of the school and 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;

(D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;

(E) provide instruction by highly qualified teachers;

(F) in accordance with subsection (e)(3) of this section and section 6319 of this title, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;

(G) provide strategies to increase parental involvement in accordance with section 6318 of this title, such as family literacy services; and

(H) coordinate and integrate Federal, State, and local services and programs, including programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

(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 achievement by—

(A) the coordinating of resources provided under this part with other resources; 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 academic achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students who need additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

(d) Integration of professional development

To promote the integration of staff supported with funds 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) participate in general professional development and school planning activities; and

(2) 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.

(e) Special rules

(1) Simultaneous service

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

(2) Comprehensive services

If—

(A) 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

(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

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

(ii) compensation of a coordinator; and

(iii) 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 carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) of this section in accordance with section 6319 of this title for such fiscal year, and 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1475.)

PRIOR PROVISIONS

A prior section 6315, Pub. L. 89–10, title I, § 1115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3539, related to targeted assistance schools, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6316. Academic assessment and local educational agency and school improvement

(a) Local review

(1) In general

Each local educational agency receiving funds under this part shall—

(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title;

(B) at the local educational agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section 6312(b)(1)(A) and (B) of this title to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title, except that the local educational agency may not use such indicators (other than as provided for in section 6311(b)(2)(I) of this title) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under this section if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 6311(b)(1) of this title; and

(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

(2) Available results

The State educational agency shall ensure that the results of State academic assess-

ments administered in that school year are available to the local educational agency before the beginning of the next school year.

(b) School improvement

(1) General requirements

(A) Identification

Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(B) Deadline

The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

(C) Application

Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 6311(b)(2)(C)(v) of this title enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.

(D) Targeted assistance schools

To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 6315 of this title should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

(E) Public school choice

(i) In general

In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) Rule

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title.

(F) Transfer

Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) of this section shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

(2) Opportunity to review and present evidence; time limit

(A) Identification

Before identifying an elementary school or a secondary school for school improvement under paragraphs[1] (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) Final determination

Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

(3) School plan

(A) Revised plan

After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F of this subchapter;

(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in

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

section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 6313 of this title for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

(II) meets the requirements for professional development activities under section 6319 of this title; and

(III) is provided in a manner that affords increased opportunity for participating in that professional development;

(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 6311(b)(2) of this title, meet the State's proficient level of achievement on the State academic assessment described in section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 6321 of this title;

(viii) include strategies to promote effective parental involvement in the school;

(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

(x) incorporate a teacher mentoring program.

(B) Conditional approval

The local educational agency may condition approval of a school plan under this paragraph on—

(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

(ii) feedback on the school improvement plan from parents and community leaders.

(C) Plan implementation

Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

(D) Plan approved during school year

Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

(E) Local educational agency approval

The local educational agency, within 45 days of receiving a school plan, shall—

(i) establish a peer review process to assist with review of the school plan; and

(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

(4) Technical assistance

(A) In general

For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

(B) Specific assistance

Such technical assistance—

(i) shall include assistance in analyzing data from the assessments required under section 6311(b)(3) of this title, and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 6318 of this title, the professional development requirements described in section 6319 of this title, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and

(iv) may be provided—

(I) by the local educational agency, through mechanisms authorized under section 6317 of this title; or

(II) by the State educational agency, an institution of higher education (that is in full compliance with all the report-

ing provisions of title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.]), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

(C) Scientifically based research

Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

(5) Failure to make adequate yearly progress after identification

In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 6311(b)(2) of this title, by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school—

(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

(B) shall make supplemental educational services available consistent with subsection (e)(1) of this section; and

(C) shall continue to provide technical assistance.

(6) Notice to parents

A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8)—

(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

(B) the reasons for the identification;

(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) of this section (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e) of this section.

(7) Corrective action

(A) In general

In this subsection, the term ''corrective action'' means action, consistent with State law, that—

(i) substantially and directly responds to—

(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

(II) any underlying staffing, curriculum, or other problems in the school; and

(ii) is designed to increase substantially the likelihood that each group of students described in[2] 6311(b)(2)(C) of this title enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 6311(b)(3) of this title.

(B) System

In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

(C) Role of local educational agency

In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 6311(b)(2) of this title, by the end of the second full school year after the identification under paragraph (1), the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

(iii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iv) identify the school for corrective action and take at least one of the following corrective actions:

(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

(III) Significantly decrease management authority at the school level.

[2] So in original. Probably should be followed by ''section''.

(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

(V) Extend the school year or school day for the school.

(VI) Restructure the internal organizational structure of the school.

(D) Delay

Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(E) Publication and dissemination

The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

(ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(iii) through such means as the Internet, the media, and public agencies.

(8) Restructuring

(A) Failure to make adequate yearly progress

If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

(B) Alternative governance

Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

(i) Reopening the school as a public charter school.

(ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.

(iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.

(iv) Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.

(v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title. In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

(C) Prompt notice

The local educational agency shall—

(i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and

(ii) provide the teachers and parents with an adequate opportunity to—

(I) comment before taking any action under those subparagraphs; and

(II) participate in developing any plan under subparagraph (A)(iii).

(9) Transportation

In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii) of this section, the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

(10) Funds for transportation and supplemental educational services

(A) In general

Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e) of this section, a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2 of this part, from which the agency shall spend—

(i) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide, or pay for, transportation under paragraph (9);

(ii) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide supplemental educational services under subsection (e) of this section; and

(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 of this part for transportation under paragraph (9), supplemental educational services under subsection (e) of this section, or both, as the agency determines.

(B) Total amount

The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e) of this section.

(C) Insufficient funds

If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

(D) Prohibition

A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 6313(c) of this title to a school described in paragraph (7)(C) or (8)(A) of subsection (b) of this section.

(11) Cooperative agreement

In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) of this section if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

(12) Duration

If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

(13) Special rule

A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

(14) State educational agency responsibilities

The State educational agency shall—

(A) make technical assistance under section 6317 of this title available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 6317(a)(2) of this title;

(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;

(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

(D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 6311(b)(9) of this title that have significantly affected student academic achievement.

(c) State review and local educational agency improvement

(1) In general

A State 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 yearly progress as defined in section 6311(b)(2) of this title toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 6317, 6318, and 6319 of this title; 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)(2) of this title.

(2) Rewards

In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, the State may make rewards of the kinds described under section 6317 of this title to the agency.

(3) Identification of local educational agency for improvement

A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to January 8, 2002, failed to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(4) Targeted assistance schools

When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools

who are served, or are eligible for services, under this part.

(5) Opportunity to review and present evidence

(A) Review

Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

(6) Notification to parents

The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

(7) Local educational agency revisions

(A) Plan

Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—

(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 of this part for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii) of this section), but excluding funds reserved for professional development under section 6319 of this title;

(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 6311(b)(2)(C)(v) of this title, consistent with adequate yearly progress as defined under section 6311(b)(2) of this title;

(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 6321 of this title; and

(viii) include strategies to promote effective parental involvement in the school.

(B) Implementation

The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

(9)[3] State educational agency responsibility

(A) Technical or other assistance

For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 6317 of this title, to better enable the local educational agency to—

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

(ii) work with schools needing improvement.

(B) Methods and strategies

Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 6318 of this title and the professional development activities described in section 6319 of this title.

(10) Corrective action

In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

[3] So in original. No par. (8) has been enacted.

(A) Definition

As used in this paragraph, the term ''corrective action'' means action, consistent with State law, that—

(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and

(ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

(B) General requirements

After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);

(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(C) Certain corrective actions required

In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

(i) Deferring programmatic funds or reducing administrative funds.

(ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.

(iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.

(v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

(vi) Abolishing or restructuring the local educational agency.

(vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F) of this section, and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9) of this section, in conjunction with carrying out not less than one additional action described under this subparagraph.

(D) Hearing

Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

(E) Notice to parents

The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

(F) Delay

Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(11) Special rule

If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

(d) 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.

(e) Supplemental educational services

(1) Supplemental educational services

In the case of any school described in paragraph (5), (7), or (8) of subsection (b) of this section, the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the

State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) Local educational agency responsibilities

Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) Agreement

In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 1414(d) of this title;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) State educational agency responsibilities

A State educational agency shall—

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 6311(b)(1) of this title;

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) Criteria for providers

In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) Amounts for supplemental educational services

The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of—

(A) the amount of the agency's allocation under subpart 2 of this part, divided by the number of children from families below the poverty level counted under section 6333(c)(1)(A) of this title; or

(B) the actual costs of the supplemental educational services received by the child.

(7) Funds provided by State educational agency

Each State educational agency may use funds that the agency reserves under this part, and part A of subchapter V of this chapter, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) Duration

The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) Prohibition

Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

(10) Waiver

(A) Requirement

At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that—

(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

(ii) the local educational agency provides evidence that it is not able to provide those services.

(B) Notification

The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

(11) Special rule

If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

(12) Definitions

In this subsection—

(A) the term ''eligible child'' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title;

(B) the term ''provider'' means a non-profit entity, a for-profit entity, or a local educational agency that—

(i) has a demonstrated record of effectiveness in increasing student academic achievement;

(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 6311 of this title; and

(iii) is financially sound; and

(C) the term ''supplemental educational services'' means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 6311 of this title and attain proficiency in meeting the State's academic achievement standards.

(f) Schools and LEAs previously identified for improvement or corrective action

(1) Schools

(A) School improvement

(i) Schools in school-improvement status before January 8, 2002

Any school that was in the first year of school improvement status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

(ii) Schools in school-improvement status for 2 or more years before January 8, 2002

Any school that was in school improvement status under this section for two or more consecutive school years preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5) of this section.

(B) Corrective action

Any school that was in corrective action status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

(2) LEAs

(A) LEA improvement

A State shall identify for improvement under subsection (c)(3) of this section any local educational agency that was in improvement status under this section as this section was in effect on the day preceding January 8, 2002.

(B) Corrective action

A State shall identify for corrective action under subsection (c)(10) of this section any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding January 8, 2002.

(C) Special rule

For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) of this section are provided not later than the first day of the 2002–2003 school year.

(D) Transition

With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, such determination shall include in such 2-year period any continuous period of time immediately preceding January 8, 2002, during which the agency has failed to make such progress.

(g) Schools funded by the Bureau of Indian Affairs

(1) Adequate yearly progress for Bureau funded schools

(A) Development of definition

(i) Definition

The Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, using the process set out in section 2018(b) of title 25, shall define adequate yearly progress, consistent with section 6311(b) of this title, for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(ii) Use of definition

The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 6311(b) of this title, or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

(B) Waiver

The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of[4] Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 6311(b) of this title, that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 6311(b) of this title, taking into account the unique circumstances and needs of such school or schools and the students served.

(C) Technical assistance

The Secretary of[4] Interior shall, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

(2) Accountability for BIA schools

For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b) of this section, as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c) of this section, or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e) of this section.

(3) School improvement for Bureau schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3) of this section, and subsection (b)(5) of this section, other than subsection (b)(1)(E) of this section. The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) of this section relating to technical assistance.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5) of this section, other than subsection (b)(1)(E) of this section.

(4) Corrective action and restructuring for Bureau-funded schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a con-

[4] So in original. Probably should be ''of the''.

tract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by such school board under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by the Bureau under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(5) Annual report

On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

(A) the identity of each school;

(B) a statement from each affected school board regarding the factors that lead to such identification; and

(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

(h) Other agencies

After receiving the notice described in subsection (b)(14)(D) of this section, the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

(Pub. L. 89–10, title I, § 1116, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1478.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(4)(B)(iv)(II), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 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.

This section on the day preceding January 8, 2002 (as this section was in effect on such day), referred to in subsec. (f), means section 1116 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, as amended, which was classified to section 6317 of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439.

The Indian Self-Determination Act, referred to in subsec. (g)(3)(A), (4)(A), 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. (g)(3)(A), (4)(A), 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.

PRIOR PROVISIONS

A prior section 6316, Pub. L. 89–10, title I, § 1115A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, related to school choice, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1116 of Pub. L. 89–10 was classified to section 6317 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6317. School support and recognition

(a) System for support

(1) In general

Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

(2) Priorities

In carrying out this subsection, a State shall—

(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 6316 of this title and assist those schools, in accordance with section 6316(b)(11) of this title, for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 6316(b) of this title;

(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 6316(b) of this title; and

(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

(3) Regional centers

Such a statewide system shall, to the extent practicable, work with and receive support and assistance from regional educational laboratories established under part D of the Education Sciences Reform Act of 2002 [20 U.S.C. 9561 et seq.] and comprehensive centers established under the Educational Technical Assistance Act of 2002 [20 U.S.C. 9601 et seq.] and the comprehensive regional technical assistance

centers and the regional educational laboratories under section 6041(h) of this title (as such section existed on the day before November 5, 2002), or other providers of technical assistance.

(4) Statewide system

(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

(i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).

(ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.

(iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.

(iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

(B) PRIORITY.—The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).

(5) School support teams

(A) Composition

Each school support team established under this section shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

(i) highly qualified or distinguished teachers and principals;

(ii) pupil services personnel;

(iii) parents;

(iv) representatives of institutions of higher education;

(v) representatives of regional educational laboratories or comprehensive regional technical assistance centers;

(vi) representatives of outside consultant groups; or

(vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

(B) Functions

Each school support team assigned to a school under this section shall—

(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school;

(ii) collaborate with parents and school staff and the local educational agency serving the school in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 6311(b)(2)(B) of this title;

(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and

(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

(C) Continuation of assistance

After one school year, from the beginning of the activities, such school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

(b) State recognition

(1) Academic achievement awards program

(A) In general

Each State receiving a grant under this part—

(i) shall establish a program for making academic achievement awards to recognize schools that meet the criteria described in subparagraph (B); and

(ii) as appropriate and as funds are available under subsection (c)(2)(A) of this section, may financially reward schools served under this part that meet the criteria described in clause (ii).

(B) Criteria

The criteria referred to in subparagraph (A) are that a school—

(i) significantly closed the achievement gap between the groups of students described in section 6311(b)(2) of this title; or

(ii) exceeded their adequate yearly progress, consistent with section 6311(b)(2) of this title, for 2 or more consecutive years.

(2) Distinguished schools

Of those schools meeting the criteria described in paragraph (2), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in subparagraph (B)(i) or exceeding adequate yearly progress as described in subparagraph (B)(ii). Such distinguished schools may serve as models for and provide support to other schools, especially schools identified for improvement

under section 6316 of this title, to assist such schools in meeting the State's academic content standards and student academic achievement standards.

(3) Awards to teachers

A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(4)(A)(iii) of this section.

(c) Funding

(1) In general

Each State—

(A) shall use funds reserved under section 6303(a) of this title and may use funds made available under section 6303(g) of this title for the approaches described under subsection (a)(4)(A) of this section; and

(B) shall use State administrative funds authorized under section 6304(a) of this title to establish the statewide system of support described under subsection (a) of this section.

(2) Reservations of funds by State

(A) Awards program

For the purpose of carrying out subsection (b)(1) of this section, each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under subpart 2 of this part for a fiscal year exceed the amount received by the State under that subpart for the preceding fiscal year, not more than 5 percent of such excess amount.

(B) Teacher awards

For the purpose of carrying out subsection (b)(3) of this section, a State educational agency may reserve such funds as necessary from funds made available under section 6613 of this title.

(3) Use within 3 years

Notwithstanding any other provision of law, the amount reserved under subparagraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years receipt of funds.

(4) Special allocation rule for schools in high-poverty areas

(A) In general

Each State shall distribute not less than 75 percent of any amount reserved under paragraph (2)(A) for each fiscal year to schools described in subparagraph (B), or to teachers in those schools consistent with subsection (b)(3) of this section.

(B) School described

A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

(Pub. L. 89–10, title I, § 1117, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1498; amended Pub. L. 107–279, title IV, § 404(d)(3), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title II, § 201(b)(3), Dec. 3, 2004, 118 Stat. 2802.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (a)(3), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part D of the Act is classified generally to part D (§ 9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Educational Technical Assistance Act of 2002, referred to in subsec. (a)(3), is title II of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1975, which is classified generally to subchapter II (§ 9601 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

Section 6041(h) of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

PRIOR PROVISIONS

A prior section 6317, 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, related to assessment and local educational agency and school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6316 of this title.

A prior section 1117 of Pub. L. 89–10 was classified to section 6318 of this title prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2004—Subsec. (a)(3). Pub. L. 108–446 substituted ''part D'' for ''part E''.

2002—Subsec. (a)(3). Pub. L. 107–279 inserted ''regional educational laboratories established under part E of the Education Sciences Reform Act of 2002 and comprehensive centers established under the Educational Technical Assistance Act of 2002 and'' after ''assistance from'' and ''(as such section existed on the day before November 5, 2002)'' after ''section 6041(h) of this title''.

§ 6318. 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 this section. Such programs, activities, and procedures 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 on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 6312 of this title, establish the agency's expectations for parent involvement, and describe how the 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 6316 of this title;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;

(C) build the schools' and parents' capacity for strong parental 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 the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and 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 in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section (with 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 use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

(F) involve parents in the activities of the schools served under this part.

(3) Reservation

(A) In general

Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is $5,000 or less.

(B) Parental input

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.

(C) Distribution of funds

Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

(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 on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section. Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and 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 involved 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 the requirements of this part, and the right of the parents 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 planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 6314(b)(2) of this title, except that if a school has in place a process for involving parents in the joint planning and design of the school's 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) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; 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 academic achievement

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 academic 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 academic achievement 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 involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part—

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;

(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 parents and the school;

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

(5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;

(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;

(7) 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 training;

(8) 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;

(9) may train parents to enhance the involvement of other parents;

(10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

(11) may adopt and implement model approaches to improving parental involvement;

(12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this section;

(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

(14) 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, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 6311 of this

title in a format and, to the extent practicable, in a language such parents understand.

(g) Information from parental information and resource centers

In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.

(h) Review

The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

(Pub. L. 89–10, title I, § 1118, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1501.)

PRIOR PROVISIONS

A prior section 6318, Pub. L. 89–10, title I, § 1117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3548, related to State assistance for school support and improvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6317 of this title.

A prior section 1118 of Pub. L. 89–10 was classified to section 6319 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6319. Qualifications for teachers and paraprofessionals

(a) Teacher qualifications and measurable objectives

(1) In general

Beginning with the first day of the first school year after January 8, 2002, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) State plan

As part of the plan described in section 6311 of this title, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum—

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005–2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) Local plan

As part of the plan described in section 6312 of this title, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005–2006 school year.

(b) Reports

(1) Annual State and local reports

(A) Local reports

Each State educational agency described in subsection (a)(2) of this section shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002–2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2) of this section.

(B) State reports

Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002–2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2) of this section.

(C) Information from other reports

A State educational agency or local educational agency may submit information from the reports described in section 6311(h) of this title for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 6311(h) of this title.

(2) Annual reports by the Secretary

Each year, beginning with the 2002–2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2) of this section.

(c) New paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after January 8, 2002, and working in a program supported with funds under this part shall have—

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment—

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) Clarification

The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) Existing paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before January 8, 2002, and working in a program supported with funds under this part shall, not later than 4 years after January 8, 2002, satisfy the requirements of subsection (c) of this section.

(e) Exceptions for translation and parental involvement activities

Subsections (c) and (d) of this section shall not apply to a paraprofessional—

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

(2) whose duties consist solely of conducting parental involvement activities consistent with section 6318 of this title.

(f) General requirement for all paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) Duties of paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) Responsibilities paraprofessionals may be assigned

A paraprofessional described in paragraph (1) may be assigned—

(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

(B) to assist with classroom management, such as organizing instructional and other materials;

(C) to provide assistance in a computer laboratory;

(D) to conduct parental involvement activities;

(E) to provide support in a library or media center;

(F) to act as a translator; or

(G) to provide instructional services to students in accordance with paragraph (3).

(3) Additional limitations

A paraprofessional described in paragraph (1)—

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with this section; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, 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.

(h) Use of funds

A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) Verification of compliance

(1) In general

In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 6314 or 6315 of this title attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) Availability of information

Copies of attestations under paragraph (1)—

(A) shall be maintained at each school operating a program under section 6314 or 6315 of this title and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) 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, other Acts, and other sources.

(k) Special rule

Except as provided in subsection (*l*) of this section, 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 6316(c)(3) of this title.

(*l*) Minimum expenditures

Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005–2006 school year.

(Pub. L. 89–10, title I, § 1119, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1505.)

PRIOR PROVISIONS

A prior section 6319, Pub. L. 89–10, title I, § 1118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3550, related to parental involvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6318 of this title.

A prior section 1119 of Pub. L. 107–110 was classified to section 6320 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6320. 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 the school district served by a local educational agency who are enrolled in private elementary schools 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) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 6318 and 6319 of this title.

(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, and shall be provided in a timely manner.

(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, which the local educational agency may determine each year or every 2 years.

(5) Provision of services

The local educational agency may provide services under this section 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, where, and by whom the services will be provided;

(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

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

(F) the method or sources of data that are used under subsection (c) of this section and section 6313(c)(1) of this title to determine the number of children from low-income families in participating school attendance areas who attend private schools;

(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(2) Timing

Such consultation shall include meetings of agency and private school officials and 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. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(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.

(4) Documentation

Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

(5) Compliance

(A) In general

A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(B) Procedure

If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(c) Allocation for equitable service to private school students

(1) Calculation

A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

(2) Complaint process

Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 7883 of this title.[1]

(d) 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, materials, equipment, and property.

(2) Provision of services

(A) Provider

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) Requirement

In the provision of such services, such employee, individual, 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.

(e) Standards for a bypass

If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools 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;

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 7883 and 7884 of this title; and

(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

(Pub. L. 89–10, title I, § 1120, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1508.)

REFERENCES IN TEXT

Section 7883, referred to in subsec. (c)(2), was in the original ''section 9505'', and was translated as reading ''section 9503'', meaning section 9503 of Pub. L. 89–10, to reflect the probable intent of Congress, because provisions authorizing complaint process are contained in section 9503.

PRIOR PROVISIONS

A prior section 6320, Pub. L. 89–10, title I, § 1119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3555, related to professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1120 of Pub. L. 89–10 was classified to section 6321 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6321. 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 involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 7901 of this title.

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

(1) In general

A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the 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) Comparable services

Except as provided in paragraphs (4) and (5), a local educational agency may receive

[1] See References in Text note below.

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) Substantially comparable services

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) Basis

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) Equivalence

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) Determinations

For the purpose of this subsection, 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) Exclusions

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) language instruction educational programs; and

(B) the 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 educational agency 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1511.)

PRIOR PROVISIONS

A prior section 6321, Pub. L. 89–10, title I, § 1120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3557, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6320 of this title.

A prior section 1120A of Pub. L. 89–10 was classified to section 6322 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6322. 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 with Head Start agencies and, if feasible, other entities carrying out early childhood development programs such as the Early Reading First program.

(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 entities carrying out early childhood development programs, such as the Early Reading First program, serving children who will attend the schools of the local educational 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, another early childhood development program such as the Early Reading First program;

(2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood development programs such as the Early Reading First program, 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 such as the Early Reading First program, to discuss the developmental and other needs of individual children;

(4) organizing and participating in joint transition-related training of school staff, Head Start program staff, Early Reading First program staff, and, where appropriate, other early childhood development program staff; and

(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies and entities carrying out Early Reading First programs.

(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 [42 U.S.C. 9831 et seq.].

(Pub. L. 89–10, title I, § 1120B, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1512.)

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.

PRIOR PROVISIONS

A prior section 6322, 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, related to fiscal requirements, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6321 of this title.

A prior section 6323, Pub. L. 89–10, title I, § 1120B, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3560, related to coordination requirements, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 2—ALLOCATIONS

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

(a) Reservation of funds

From the amount appropriated for payments to States for any fiscal year under section[1] 6302(a) and 6337(f) of this title, the Secretary shall reserve a total of 1 percent to provide assistance to—

(1) the outlying areas in the amount determined in accordance with subsection (b) of this section; and

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

(b) Assistance to outlying areas

(1) Funds reserved

From the amount made available for any fiscal year under subsection (a) of this section, the Secretary shall award grants to local educational agencies in the outlying areas.

(2) Competitive grants

Until each appropriate outlying area enters into an agreement for extension of United States educational assistance under the Compact of Free Association after January 8, 2002, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed $5,000,000.

(3) Limitation for competitive grants

(A) Competitive grants

The Secretary shall use funds described in paragraph (2) to award grants to the outlying areas and freely associated States to carry out the purposes of this part.

(B) Award basis

The Secretary shall award grants under subparagraph (A) on a competitive basis, taking into consideration the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(C) Uses

Except as provided in subparagraph (D), grant funds awarded under this paragraph may be used only—

(i) for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

(ii) to provide direct educational services that assist all students with meeting challenging State academic content standards.

(D) Administrative costs

The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

(4) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the freely associated States under this section.

(c) Definitions

For the purpose of subsections (a) and (b) of this section—

(1) the term ''freely associated states'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and

(2) the term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) Allotment to the 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 schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

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

(B) out-of-State Indian children in elementary schools 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, on 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1513.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (b)(4), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 6331, Pub. L. 89–10, title I, § 1121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3561, related to grants for outlying areas and the Secretary of the Interior, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6332. Allocations to States

(a) Allocation formula

Of the amount appropriated under section 6302(a) of this title to carry out this part for each of fiscal years 2002–2007 (referred to in this subsection as the current fiscal year)—

(1) an amount equal to the amount made available to carry out section 6333 of this title for fiscal year 2001 shall be allocated in accordance with section 6333 of this title;

(2) an amount equal to the amount made available to carry out section 6334 of this title for fiscal year 2001 shall be allocated in accordance with section 6334 of this title; and

(3) an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 6333, 6334, and 6335 of this title for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 6333 and 6334 of this title for fiscal year 2001 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 subpart for any fiscal year are insufficient to pay the full 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) Amounts for sections 6333, 6334, and 6335

For each fiscal year, the amount made available to each local educational agency under each of sections 6333, 6334, and 6335 of this title shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(2) Payments

If sufficient funds are appropriated, the amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 6334 of this title for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year described in section 6334(a)(1)(A) of this title except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (1).

(3) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(4) Population data

For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in paragraphs (1) and (2) to counties and, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, 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 subsection.

(d) Ratable reductions

(1) In general

If the sums made available under this subpart for any fiscal year are insufficient to pay the full amounts that local educational agencies in 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 were reduced.

(e) Definition

For the purpose of this section and sections 6333, 6334, 6335, and 6337 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1515.)

PRIOR PROVISIONS

A prior section 6332, Pub. L. 89–10, title I, § 1122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3562, related to allocations to States, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6333. Basic grants to local educational agencies

(a) Amount of grants

(1) Grants for local educational agencies and Puerto Rico

Except as provided in paragraph (4) and in section 6338 of this title, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

(A) the number of children counted under subsection (c) of this section; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Calculation of grants

(A) Allocations to local educational agencies

The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) of this section for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

(i) the two Secretaries shall publicly disclose the reasons for their determination in detail; and

(ii) paragraph (3) shall apply.

(B) Allocations to large and small local educational agencies

(i) For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.

(ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).

(iii) For small local educational agencies, the State educational agency may either—

(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or

(II) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small agencies.

(iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b) of this section.

(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

(vi) As used in this subparagraph—

(I) the term ''large local educational agency'' means a local educational agency serving an area with a total population of 20,000 or more; and

(II) the term ''small local educational agency'' means a local educational agency serving an area with a total population of less than 20,000.

(3) Allocations to counties

(A) Calculation

For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the 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 issued by the Secretary.

(B) Direct allocations

In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this subpart for a particular fiscal year directly to local educational agencies without regard to counties.

(C) Allocations to local educational agencies

If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

(i) using precisely the same factors for determining a grant as are used under this subpart; or

(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

(D) Appeal

The State educational agency shall provide the Secretary an assurance that it will establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

(4) Puerto Rico

(A) In general

For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico by the product of—

(i) subject to subparagraph (B), 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

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

(B) Minimum percentage

The percentage in subparagraph (A)(i) shall not be less than—

(i) for fiscal year 2002, 77.5 percent;

(ii) for fiscal year 2003, 80.0 percent;

(iii) for fiscal year 2004, 82.5 percent;

(iv) for fiscal year 2005, 85.0 percent;

(v) for fiscal year 2006, 92.5 percent; and

(vi) for fiscal year 2007 and succeeding fiscal years, 100.0 percent.

(C) Limitation

If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of—

(i) the percentage in subparagraph (A)(i);

(ii) the percentage specified in subparagraph (B) for the preceding fiscal year; or

(iii) the percentage used for the preceding fiscal year.

(b) Minimum number of children to qualify

A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) of this section for that agency is both—

(1) 10 or more; and

(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

(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 (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) 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; and

(C) 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 (4).

(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. 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

(A) In general

In fiscal year 2002 and each subsequent fiscal year, 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 the use of the updated population data would be inappropriate or unreliable. If appropriate and reliable data are not available annually, the Secretary shall use data which are updated every 2 years.

(B) Inappropriate or unreliable data

If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in subparagraph (A) are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons.

(C) Criteria of poverty

In determining the families that are below the poverty level, the Secretary shall use

the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(4) Other children to be counted

(A) For the purpose 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 income, 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 use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of four 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.

(B) The Secretary shall determine the number of such children and the number of children aged 5 through 17 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.

(C) Except for the data on children living in institutions for neglected or delinquent children, 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.

(D) For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(5) 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 paragraph (1)(A)) 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.

(d) State minimum

Notwithstanding 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 the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(2) the average of—

(A) the amount calculated in paragraph (1), above; 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.

(Pub. L. 89–10, title I, § 1124, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1516.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(4)(A), 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.

PRIOR PROVISIONS

A prior section 6333, 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, related to basic grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 which is eligible for a grant under section 6333 of this title for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 6333(c) of this title in the agency exceeds either—

(i) 6,500; or

(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

(B) Notwithstanding section 6332 of this title, no State shall receive less than the lesser of—

(i) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(ii) the average of—

(I) the amount calculated under clause (i); 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) Determination

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 amount in section 6333(a)(1)(B) of this title for each State except the Commonwealth of Puerto Rico, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(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) Local allocations

(A) Grant amounts under this section shall be determined in accordance with section 6333(a)(2), (3), and (4) of this title.

(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

(b) Small States

In any State for which on January 8, 2002, the number of children counted under section 6333(c) of this title is less than 0.25 percent of the number of those children counted for all States, the State educational agency shall allocate funds under this section among the local educational agencies in the 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1521.)

PRIOR PROVISIONS

A prior section 6334, Pub. L. 89–10, title I, § 1124A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3569, related to concentration grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6335. Targeted grants to local educational agencies

(a) Eligibility of local educational agencies

(1) In general

A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 10; and

(B) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

(2) Special rule

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, 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 the Commonwealth of Puerto Rico

(1) In general

The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) 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 determined under section 6333(a)(1)(B) of this title.

(2) Puerto Rico

For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(c) Weighted child count

(1) Weights for allocations to counties

(A) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that

county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of 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 1.82.

(2) Weights for allocations to local educational agencies

(A) In general

For each fiscal year 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 subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of 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 1.82.

(d) Calculation of grant amounts

Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 6333(a)(2) and (3) of this title.

(e) State minimum

Notwithstanding any other provision of this section or 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) 0.35 percent of the total amount available to carry out this section; or

(2) the average of—

(A) 0.35 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1522.)

PRIOR PROVISIONS

A prior section 6335, Pub. L. 89–10, title I, § 1125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3571, related to targeted grants to local educational

agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6336. Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001

(a) Findings

Congress makes the following findings:

(1) The current Basic Grant Formula for the distribution of funds under this part often does not provide funds for the economically disadvantaged students for which such funds are targeted.

(2) Any school district in which more than 2 percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.

(3) Fifty-eight percent of all schools receive at least some funding under this part, including many suburban schools with predominantly well-off students.

(4) One out of every 5 schools with concentrations of poor students between 50 and 75 percent receive no funding at all under this part.

(5) In passing the Improving America's Schools Act in 1994, Congress declared that grants under this part would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.

(6) The advantage of the Targeted Grant Formula over other funding formulas under this part is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged children in a school district increases.

(7) Studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families.

(8) States with large populations of high poverty students would receive significantly more funding if more funds under this part were allocated through the Targeted Grant Formula.

(9) Congress has an obligation to allocate funds under this part so that such funds will positively affect the largest number of economically disadvantaged students.

(b) Limitation on allocation of subchapter I funds contingent on adequate funding of targeted grants

Pursuant to section 6332 of this title, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 6335 of this title in the applicable fiscal year meets the requirements of section 6332(a) of this title.

(Pub. L. 89–10, title I, § 1125AA, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1525.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in subsec. (a)(5), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, as amended. 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.

PRIOR PROVISIONS

A prior section 6336, Pub. L. 89–10, title I, § 1125A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3575, related to education finance incentive program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6337 of this title.

§ 6337. Education finance incentive grant program

(a) Grants

From funds appropriated under subsection (f) of this section the Secretary is authorized to make grants to States, from allotments under subsection (b) of this section, to carry out the programs and activities of this part.

(b) Distribution based upon fiscal effort and equity

(1) In general

(A) In general

Except as provided in subparagraph (B), funds appropriated pursuant to subsection (f) of this section shall be allotted to each State based upon the number of children counted under section 6333(c) of this title in such State multiplied by the product of—

(i) the amount in section 6333(a)(1)(B) of this title for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less that 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico, except that the amount in section 6333(a)(4)(A)(ii) of this title shall be 34 percent of the average per pupil expenditure in the United States; multiplied by

(ii) such State's effort factor described in paragraph (2); multiplied by

(iii) 1.30 minus such State's equity factor described in paragraph (3).

(B) State minimum

Notwithstanding any other provision of this section or 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—

(i) 0.35 percent of total appropriations; or

(ii) the average of—

(I) 0.35 percent of the total amount available to carry out this section; and

(II) 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.

(2) Effort factor

(A) In general

Except as provided in subparagraph (B), the effort factor for a State shall be deter-

mined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 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 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

(B) Commonwealth of Puerto Rico

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) Determination

(i) In general

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) Computation

(I) In general

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), and (IV).

(II) Variation

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 served by the local educational agency.

(III) Number of pupils

In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 6333(c) of this title by a factor of 1.4.

(IV) Enrollment requirement

In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(B) Special rule

The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding January 8, 2002) or a State with only one local educational agency shall be not greater than 0.10.

(c) Use of funds; eligibility of local educational agencies

All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 6313 of this title, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in paragraph (3), is at least 10; and

(B) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in paragraph (3), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, 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.

(d) Allocation of funds to eligible local educational agencies

Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) States with an equity factor less than .10

In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause ''(i)[1] is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

[1] So in original. The opening quotation marks probably should not appear.

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year 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 (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(2) States with an equity factor greater than or equal to .10 and less than .20

In States with an equity factor greater than or equal to .10 and less than .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 4.5.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year 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 (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 4.5.

(3) States with an equity factor greater than or equal to .20

In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year 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 (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

(e) 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 section 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 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 1 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.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(g) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under this section for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

(2) Additional funds

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

(3) Hold-harmless amounts

For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(Pub. L. 89–10, title I, § 1125A, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1525.)

PRIOR PROVISIONS

A prior section 6337, Pub. L. 89–10, title I, § 1126, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577, related to special allocation procedures, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6338 of this title.

A prior section 1125A of Pub. L. 89–10 was classified to section 6336 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6338. 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 section 6333(c)(1)(B) 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, 6335, and 6337 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, 6335, and 6337 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, 6335, and 6337 of this title is more than such local educational 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 6338, Pub. L. 89–10, title I, § 1127, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577, related to carryover and waiver, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6339 of this title.

A prior section 1126 of Pub. L. 89–10 was classified to section 6337 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6339. Carryover and waiver

(a) Limitation on carryover

Notwithstanding section 1225(b) of this title or any other provision of law, not more than 15 percent 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 3 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 1127 of Pub. L. 89–10 was classified to section 6338 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

SUBPART 1—READING FIRST

§ 6361. Purposes

The purposes of this subpart are as follows:

(1) To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3.

(2) To provide assistance to State educational agencies and local educational agencies in preparing teachers, including special education teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools to effectively help their students learn to read.

(3) To provide assistance to State educational agencies and local educational agencies in selecting or administering screening, diagnostic, and classroom-based instructional reading assessments.

(4) To provide assistance to State educational agencies and local educational agencies in selecting or developing effective instructional materials (including classroom-based materials to assist teachers in implementing the essential components of reading instruction), programs, learning systems, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State.

(5) To strengthen coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

(Pub. L. 89–10, title I, § 1201, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1535.)

PRIOR PROVISIONS

A prior section 6361, 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, stated purpose of Even Start family literacy program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381 of this title.

A prior section 1201 of Pub. L. 89–10 was classified to section 2781 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6362. Formula grants to State educational agencies

(a) In general

(1) Authorization to make grants

In the case of each State educational agency that in accordance with section 6363 of this title submits to the Secretary an application for a 6-year period, the Secretary, from amounts appropriated under section 6302(b)(1) of this title and subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d) of this section. For each fiscal year, the funds provided under the grant shall equal the allotment determined for the State educational agency under subsection (b) of this section.

(2) Duration of grants

Subject to subsection (e)(3) of this section, a grant under this section shall be awarded for a period of not more than 6 years.

(b) Determination of amount of allotments

(1) Reservations from appropriations

From the total amount made available to carry out this subpart for a fiscal year, the Secretary—

(A) shall reserve one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

(B) shall reserve one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

(C) may reserve not more than 2½ percent or $25,000,000, whichever is less, to carry out section 6365 of this title (relating to external evaluation) and section 6366 of this title (relating to national activities);

(D) shall reserve $5,000,000 to carry out sections 6367 and 6374 of this title (relating to information dissemination); and

(E) for any fiscal year, beginning with fiscal year 2004, for which the amount appropriated to carry out this subpart exceeds the amount appropriated for fiscal year 2003, shall reserve, to carry out section 6364 of this title, the lesser of—

(i) $90,000,000; or

(ii) 10 percent of such excess amount.

(2) State allotments

In accordance with paragraph (3), the Secretary shall allot among each of the States the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1).

(3) Determination of State allotment amounts

(A) In general

Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

(B) Exceptions

(i) Minimum grant amount

Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than one-fourth of 1 percent of the total amount allotted under such subparagraph.

(ii) Puerto Rico

The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A of this subchapter for the preceding fiscal year.

(4) Distribution of subgrants

The Secretary may make a grant to a State educational agency only if the State educational agency agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with subsection (c) of this section, competitive subgrants to eligible local educational agencies.

(5) Reallotment

If a State educational agency described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot such amount to the remaining State educational agencies in accordance with paragraph (3).

(6) Definition of State

For purposes of this subsection, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Subgrants to local educational agencies

(1) Authorization to make subgrants

In accordance with paragraph (2), a State educational agency that receives a grant under this section shall make competitive subgrants to eligible local educational agencies.

(2) Allocation

(A) Minimum subgrant amount

In making subgrants under paragraph (1), a State educational agency shall allocate to

each eligible local educational agency that receives such a subgrant, at a minimum, an amount that bears the same relation to the funds made available under subsection (b)(4) of this section as the amount the eligible local educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount all the local educational agencies in the State received under part A of this subchapter for the preceding fiscal year.

(B) Priority

In making subgrants under paragraph (1), a State educational agency shall give priority to eligible local educational agencies in which at least—

(i) 15 percent of the children served by the eligible local educational agency are from families with incomes below the poverty line; or

(ii) 6,500 children served by the eligible local educational agency are from families with incomes below the poverty line.

(3) Notice

A State educational agency receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

(4) Local application

To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(5) State requirement

In distributing subgrant funds to eligible local educational agencies under this subsection, a State educational agency shall—

(A) provide funds in sufficient size and scope to enable the eligible local educational agencies to improve reading instruction; and

(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

(6) Limitation to certain schools

In distributing subgrant funds under this subsection, an eligible local educational agency shall provide funds only to schools that both—

(A) are among the schools served by that eligible local educational agency with the highest percentages or numbers of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

(B)(i) are identified for school improvement under section 6316(b) of this title; or

(ii) have the highest percentages or numbers of children counted under section 6333(c) of this title.

(7) Local uses of funds

(A) Required uses

Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

(i) Selecting and administering screening, diagnostic, and classroom-based instructional reading assessments.

(ii) Selecting and implementing a learning system or program of reading instruction based on scientifically based reading research that—

(I) includes the essential components of reading instruction; and

(II) provides such instruction to the children in kindergarten through grade 3 in the schools served by the eligible local educational agency, including children who—

(aa) may have reading difficulties;

(bb) are at risk of being referred to special education based on these difficulties;

(cc) 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 that Act [20 U.S.C. 1414(b)(5)], have not been identified as being a child with a disability (as defined in section 602 of that Act [20 U.S.C. 1401]);

(dd) are being served under such Act [20 U.S.C. 1400 et seq.] primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of that Act [20 U.S.C. 1401]) related to reading;

(ee) are deficient in the essential components of reading skills, as listed in subparagraphs (A) through (E) of section 6368(3) of this title; or

(ff) are identified as having limited English proficiency.

(iii) Procuring and implementing instructional materials, including education technology such as software and other digital curricula, that are based on scientifically based reading research.

(iv) Providing professional development for teachers of kindergarten through grade 3, and special education teachers of kindergarten through grade 12, that—

(I) will prepare these teachers in all of the essential components of reading instruction;

(II) shall include—

(aa) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention, classroom reading materials, and remedial programs and approaches; and

(bb) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

(III) shall be provided by eligible professional development providers; and

(IV) will assist teachers in becoming highly qualified in reading instruction in accordance with the requirements of section 6319 of this title.

(v) Collecting and summarizing data—

(I) to document the effectiveness of activities carried out under this subpart in individual schools and in the local educational agency as a whole; and

(II) to stimulate and accelerate improvement by identifying the schools that produce significant gains in reading achievement.

(vi) Reporting data for all students and categories of students described in section 6311(b)(2)(C)(v)(II) of this title.

(vii) Promoting reading and library programs that provide access to engaging reading material, including coordination with programs funded through grants received under subpart 4 of this part, where applicable.

(B) Additional uses

Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

(i) Humanities-based family literacy programs (which may be referred to as ''Prime Time Family Reading Time'') that bond families around the acts of reading and using public libraries.

(ii) Providing training in the essential components of reading instruction to a parent or other individual who volunteers to be a student's reading tutor, to enable such parent or individual to support instructional practices that are based on scientifically based reading research and are being used by the student's teacher.

(iii) Assisting parents, through the use of materials and reading programs, strategies, and approaches (including family literacy services) that are based on scientifically based reading research, to encourage reading and support their child's reading development.

(8) Local planning and administration

An eligible local educational agency that receives a subgrant under this subsection may use not more than 3.5 percent of the funds provided under the subgrant for planning and administration.

(d) State uses of funds

(1) In general

A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

(2) Priority

A State educational agency shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6) of this section.

(3) Professional inservice and preservice development and review

A State educational agency may expend not more than 65 percent of the amount of the funds made available under paragraph (1)—

(A) to develop and implement a program of professional development for teachers, including special education teachers, of kindergarten through grade 3 that—

(i) will prepare these teachers in all the essential components of reading instruction;

(ii) shall include—

(I) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

(II) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other scientifically based procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

(iii) shall be provided by eligible professional development providers;

(B) to strengthen and enhance preservice courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through grade 3 by—

(i) reviewing such courses to determine whether the courses' content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

(ii) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

(iii) preparing a report on the results of such reviews, submitting the report to the reading and literacy partnership for the State established under section 6363(d) of this title, and making the report available for public review by means of the Internet; and

(C) to make recommendations on how the State licensure and certification standards in the area of reading might be improved.

(4) Technical assistance for local educational agencies and schools

A State educational agency may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for one or more of the following:

(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

(i) selecting and implementing a program or programs of reading instruction based on scientifically based reading research;

(ii) selecting screening, diagnostic, and classroom-based instructional reading assessments; and

(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii).

(B) Providing expanded opportunities to students in kindergarten through grade 3 who are served by eligible local educational agencies for receiving reading assistance from alternative providers that includes—

(i) screening, diagnostic, and classroom-based instructional reading assessments; and

(ii) as need is indicated by the assessments under clause (i), instruction based on scientifically based reading research that includes the essential components of reading instruction.

(5) Planning, administration, and reporting

(A) Expenditure of funds

A State educational agency may expend not more than 10 percent of the amount of funds made available under paragraph (1) for the activities described in this paragraph.

(B) Planning and administration

A State educational agency that receives a grant under this section may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

(i) Administering the distribution of competitive subgrants to eligible local educational agencies under subsection (c) of this section and section 6364(d) of this title.

(ii) Assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in grades 1, 2, and 3 served under this subpart who can read at or above grade level.

(C) Annual reporting

(i) In general

A State educational agency that receives a grant under this section shall expend funds made available under subparagraph (A) to provide the Secretary annually with a report on the implementation of this subpart.

(ii) Information included

Each report under this subparagraph shall include information on the following:

(I) Evidence that the State educational agency is fulfilling its obligations under this subpart.

(II) Specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

(III) The progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction.

(IV) Evidence on whether the State educational agency and local educational agencies within the State have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 6311(b)(2)(C)(v)(II) of this title who are reading at grade level or above, and successfully implemented this subpart.

(iii) Privacy protection

Data in the report shall be reported in a manner that protects the privacy of individuals.

(iv) Contract

To the extent practicable, a State educational agency shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State educational agency in producing the reports required to be submitted under this subparagraph.

(e) Review

(1) Progress report

(A) Submission

Not later than 60 days after the termination of the third year of the grant period, each State educational agency receiving a grant under this section shall submit a progress report to the Secretary.

(B) Information included

The progress report shall include information on the progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level (as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction). The report shall also include evidence from the State educational agency and local educational agencies within the State that the State educational agency and the local educational agencies have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 6311(b)(2)(C)(v)(II) of this title who are reading at grade level or above, and successfully implemented this subpart.

(2) Peer review

The progress report described in paragraph (1) shall be reviewed by the peer review panel convened under section 6363(c)(2) of this title.

(3) Consequences of insufficient progress

After submission of the progress report described in paragraph (1), if the Secretary determines that the State educational agency is not making significant progress in meeting

the purposes of this subpart, the Secretary may withhold from the State educational agency, in whole or in part, further payments under this section in accordance with section 1234d of this title or take such other action authorized by law as the Secretary determines necessary, including providing technical assistance upon request of the State educational agency.

(f) Funds not used for State level activities

Any portion of funds described in subsection (d)(1) of this section that a State educational agency does not expend in accordance with subsection (d)(1) of this section shall be expended for the purpose of making subgrants in accordance with subsection (c) of this section.

(g) Supplement, not supplant

A State or local educational agency shall use funds received under this subpart only to supplement the level of non-Federal funds that, in the absence of funds under this subpart, would be expended for activities authorized under this subpart, and not to supplant those non-Federal funds.

(Pub. L. 89–10, title I, § 1202, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1535; amended Pub. L. 108–7, div. G, title III, § 305, Feb. 20, 2003, 117 Stat. 333.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(7)(A)(ii)(II), 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 6362, 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, authorized Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381a of this title.

A prior section 1202 of Pub. L. 89–10 was classified to section 2782 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2003—Subsec. (g). Pub. L. 108–7 added subsec. (g).

§ 6363. State formula grant applications

(a) Applications

(1) In general

A State educational agency that desires to receive a grant under section 6362 of this title 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 subsection (b) of this section.

(2) Special application provisions

For those State educational agencies that have received a grant under part C of title II (as such part was in effect on the day before January 8, 2002), the Secretary shall establish a modified set of requirements for an application under this section that takes into account the information already submitted and approved under that program and minimizes the duplication of effort on the part of such State educational agencies.

(b) Contents

An application under this section shall contain the following:

(1) 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—

(A) coordinated the development of the application; and

(B) will assist in the oversight and evaluation of the State educational agency's activities under this subpart.

(2) A description, if applicable, of the State's strategy to expand, continue, or modify activities authorized under part C of title II (as such part was in effect on the day before January 8, 2002).

(3) An assurance that the State educational agency, and any local educational agencies receiving a subgrant from that State educational agency under section 6362 of this title, will, if requested, participate in the external evaluation under section 6365 of this title.

(4) A State educational agency plan containing a description of the following:

(A) How the State educational agency will assist local educational agencies in identifying screening, diagnostic, and classroom-based instructional reading assessments.

(B) How the State educational agency will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches.

(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under section 6362 of this title are—

(i) coordinated with other Federal, State, and local level funds, and used effectively to improve instructional practices for reading; and

(ii) based on scientifically based reading research.

(D) How the activities assisted under section 6362 of this title will address the needs of teachers and other instructional staff in implementing the essential components of reading instruction.

(E) How subgrants made by the State educational agency under section 6362 of this title will meet the requirements of section 6362 of this title, including how the State educational agency will ensure that eligible local educational agencies receiving subgrants under section 6362 of this title will use practices based on scientifically based reading research.

(F) How the State educational agency will, to the extent practicable, make grants to eligible local educational agencies in both rural and urban areas.

(G) How the State educational agency will build on, and promote coordination among literacy programs in the State (including federally funded programs such as 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 subpart 2 of this part), to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program.

(H) How the State educational agency will assess and evaluate, on a regular basis, eligible local educational agency activities assisted under section 6362 of this title, with respect to whether the activities have been effective in achieving the purposes of section 6362 of this title.

(I) Any other information that the Secretary may reasonably require.

(c) Approval of applications

(1) In general

The Secretary shall approve an application of a State educational agency under this section only if such application meets the requirements of this section.

(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) three individuals selected by the Secretary;

(ii) three individuals selected by the National Institute for Literacy;

(iii) three individuals selected by the National Research Council of the National Academy of Sciences; and

(iv) three individuals selected by the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

(B) Experts

The panel shall include—

(i) experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section;

(ii) experts who provide professional development to individuals who teach reading to children and adults based on scientifically based reading research;

(iii) experts who provide professional development to other instructional staff based on scientifically based reading research; and

(iv) an individual who has expertise in screening, diagnostic, and classroom-based instructional reading assessments.

(C) Recommendations

The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval.

(d) Reading and literacy partnerships

(1) In general

For a State educational agency to receive a grant under section 6362 of this title, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership.

(2) Required participants

The reading and literacy partnership shall include 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 eligible local educational agency.

(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, selected jointly by the Governor and the chief State school officer.

(G) A parent of a public or private school student or a parent who educates the parent's child in the parent's home, selected jointly by the Governor and the chief State school officer.

(H) A teacher, who may be a special education teacher, who successfully teaches reading, and another 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.

(3) Optional participants

The 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 in the State that is based on scientifically based reading research;

(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.

(4) Preexisting partnership

If, before January 8, 2002, a State educational agency established a consortium,

partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on January 8, 2002), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subsection consistent with the provisions of this subpart.

(Pub. L. 89–10, title I, § 1203, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1543; amended Pub. L. 110–154, § 1(c)(3), Dec. 21, 2007, 121 Stat. 1828.)

REFERENCES IN TEXT

Part C of title II (as such part was in effect on the day before January 8, 2002), referred to in subsecs. (a)(2), (b)(2), and (d)(4), means part C of title II of Pub. L. 89–10, as added by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, as amended, which was classified generally to part C (§ 6661 et seq.) of subchapter II of this chapter prior to the general amendment of subchapter II by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(4)(G), 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)(4)(G), 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 6363, 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, related to State Even Start programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381b of this title.

A prior section 1203 of Pub. L. 89–10 was classified to section 2783 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2007—Subsec. (c)(2)(A)(iv). Pub. L. 110–154 substituted ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'' for ''National Institute of Child Health and Human Development''.

§ 6364. Targeted assistance grants

(a) Eligibility criteria for awarding targeted assistance grants to States

Beginning with fiscal year 2004, from funds appropriated under section 6362(b)(1)(E) of this title, the Secretary shall make grants, on a competitive basis, to those State educational agencies that—

(1) for each of 2 consecutive years, demonstrate that an increasing percentage of third graders in each of the groups described in section 6311(b)(2)(C)(v)(II) of this title in the schools served by the local educational agencies receiving funds under section 6362 of this title are reaching the proficient level in reading; and

(2) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under section 6362 of this title are improving the reading skills of students in grades 1, 2, and 3 based on screening, diagnostic, and classroom-based instructional reading assessments.

(b) Continuation of performance awards

For any State educational agency that receives a competitive grant under this section, the Secretary shall make an award for each of the succeeding years that the State educational agency demonstrates it is continuing to meet the criteria described in subsection (a) of this section.

(c) Distribution of targeted assistance grants

(1) In general

The Secretary shall make a grant to each State educational agency with an application approved under this section in an amount that bears the same relation to the amount made available to carry out this section for a fiscal year as the number of children counted under section 6333(c) of this title for the State bears to the number of such children so counted for all States with applications approved for that year.

(2) Peer review

The peer review panel convened under section 6363(c)(2) of this title shall review the applications submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

(3) Application contents

A State educational agency that desires 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 require. Each such application shall include the following:

(A) Evidence that the State educational agency has carried out its obligations under section 6363 of this title.

(B) Evidence that the State educational agency has met the criteria described in subsection (a) of this section.

(C) The amount of funds requested by the State educational agency and a description of the criteria the State educational agency intends to use in distributing subgrants to eligible local educational agencies under this section to continue or expand activities under subsection (d)(5) of this section.

(D) Evidence that the State educational agency has increased significantly the percentage of students reading at grade level or above.

(E) Any additional evidence that demonstrates success in the implementation of this section.

(d) Subgrants to eligible local educational agencies

(1) In general

The Secretary may make a grant to a State educational agency under this section only if the State educational agency agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of mak-

ing competitive subgrants in accordance with this subsection to eligible local educational agencies.

(2) Notice

A State educational agency receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

(3) Application

To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(4) Distribution

(A) In general

A State educational agency shall distribute subgrants under this section through a competitive process based on relative need of eligible local educational agencies and the evidence described in this paragraph.

(B) Evidence used in all years

For all fiscal years, a State educational agency shall distribute subgrants under this section based on evidence that an eligible local educational agency—

(i) satisfies the requirements of section 6362(c)(4) of this title;

(ii) will carry out its obligations under this subpart;

(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such nonreceiving agencies in increasing the reading achievement of students; and

(iv) is meeting the criteria described in subsection (a) of this section.

(5) Local uses of funds

An eligible local educational agency that receives a subgrant under this subsection—

(A) shall use the funds provided under the subgrant to carry out the activities described in section 6362(c)(7)(A) of this title; and

(B) may use such funds to carry out the activities described in section 6362(c)(7)(B) of this title.

(Pub. L. 89–10, title I, § 1204, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1546.)

PRIOR PROVISIONS

A prior section 6364, 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, related to uses of funds in carrying out an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381c of this title.

§ 6365. External evaluation

(a) In general

From funds reserved under section 6362(b)(1)(C) of this title, the Secretary shall contract with an independent organization outside of the Department for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

(b) Process

The evaluation under subsection (a) of this section shall be conducted by an organization that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by State educational agencies and local educational agencies under this subpart on improving reading instruction. Such evaluation shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

(c) Analysis

The evaluation under subsection (a) of this section shall include the following:

(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

(2) An analysis of whether assessment tools used by State educational agencies and local educational agencies measure the essential components of reading.

(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

(4) An analysis of whether the receipt of a targeted assistance grant under section 6364 of this title results in an increase in the number of children who read proficiently.

(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

(6) A measurement of the extent to which specific screening, diagnostic, and classroom-based instructional reading assessments assist teachers in identifying specific reading deficiencies.

(7) A measurement of the extent to which professional development programs implemented by State educational agencies using funds received under this subpart improve reading instruction.

(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

(d) Program improvement

The findings of the evaluation conducted under this section shall be provided to State educational agencies and local educational agencies on a periodic basis for use in program improvement.

(Pub. L. 89–10, title I, § 1205, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1548.)

PRIOR PROVISIONS

A prior section 6365, 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, related to Even Start program elements, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381d of this title.

§ 6366. National activities

From funds reserved under section 6362(b)(1)(C) of this title, the Secretary—

(1) may provide technical assistance in achieving the purposes of this subpart to State educational agencies, local educational agencies, and schools requesting such assistance;

(2) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to, and eligibility for, special education services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] (based on their difficulties learning to read); and

(3) shall carry out the external evaluation as described in section 6365 of this title.

(Pub. L. 89–10, title I, § 1206, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1548.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (2), 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 6366, 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, related to eligible participants in an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381e of this title.

§ 6367. Information dissemination

(a) In general

From funds reserved under section 6362(b)(1)(D) of this title, the National Institute for Literacy, in collaboration with the Secretary of Education, the Secretary of Health and Human Services, and the Director of the Eunice Kennedy Shriver National Institute of Child Health and Human Development shall—

(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

(2) identify and disseminate information about schools, local educational agencies, and State educational agencies that have effectively developed and implemented classroom reading programs that meet the requirements of this subpart, including those State educational agencies, local educational agencies, and schools that have been identified as effective through the evaluation and peer review provisions of this subpart; and

(3) support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based reading research, that can lead to improved reading outcomes for children, youth, and adults.

(b) Dissemination and coordination

At a minimum, the National Institute for Literacy shall disseminate the information described in subsection (a) of this section to—

(1) recipients of Federal financial assistance under this subchapter, subchapter III 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.]; and

(2) each Bureau funded school (as defined in section 2021 of title 25).

(c) Use of existing networks

In carrying out this section, the National Institute for Literacy shall, to the extent practicable, use existing information and dissemination networks developed and maintained through other public and private entities including through the Department and the National Center for Family Literacy.

(d) National Institute for Literacy

For purposes of funds reserved under section 6362(b)(1)(D) of this title to carry out this section, the National Institute for Literacy shall administer such funds in accordance with section 9252(b) of this title (relating to the establishment and administration of the National Institute for Literacy).

(Pub. L. 89–10, title I, § 1207, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1549; amended Pub. L. 110–154, § 1(c)(3), Dec. 21, 2007, 121 Stat. 1828.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(1), 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), 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. (b)(1), 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.

PRIOR PROVISIONS

A prior section 6367, 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, related to applications for Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381f of this title.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–154 substituted ''Eunice Kennedy Shriver National Institute of Child Health and Human Development'' for ''National Institute for Child Health and Human Development'' in introductory provisions.

§ 6368. Definitions

In this subpart:

(1) Eligible local educational agency

The term ''eligible local educational agency'' means a local educational agency that—

(A) is among the local educational agencies in the State with the highest numbers or percentages of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

(B) has—

(i) jurisdiction over a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of title 26;

(ii) jurisdiction over a significant number or percentage of schools that are identified for school improvement under section 6316(b) of this title; or

(iii) the highest numbers or percentages of children who are counted under section 6333(c) of this title, in comparison to other local educational agencies in the State.

(2) Eligible professional development provider

The term ''eligible professional development provider'' means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

(3) Essential components of reading instruction

The term ''essential components of reading instruction'' means explicit and systematic instruction in—

(A) phonemic awareness;

(B) phonics;

(C) vocabulary development;

(D) reading fluency, including oral reading skills; and

(E) reading comprehension strategies.

(4) 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.

(5) 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.

(6) Scientifically based reading research

The term ''scientifically based reading research'' means research that—

(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) includes 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.

(7) Screening, diagnostic, and classroom-based instructional reading assessments

(A) In general

The term ''screening, diagnostic, and classroom-based instructional reading assessments'' means—

(i) screening reading assessments;

(ii) diagnostic reading assessments; and

(iii) classroom-based instructional reading assessments.

(B) Screening reading assessment

The term ''screening reading assessment'' means an assessment that is—

(i) valid, reliable, and based on scientifically based reading research; and

(ii) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.

(C) Diagnostic reading assessment

The term ''diagnostic reading assessment'' means an assessment that is—

(i) valid, reliable, and based on scientifically based reading research; and

(ii) used for the purpose of—

(I) identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;

(II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

(III) helping to determine possible reading intervention strategies and related special needs.

(D) Classroom-based instructional reading assessment

The term ''classroom-based instructional reading assessment'' means an assessment that—

(i) evaluates children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

(ii) is used to improve instruction in reading, including classroom instruction.

(Pub. L. 89–10, title I, § 1208, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1549.)

PRIOR PROVISIONS

A prior section 6368, 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, related to award of Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381g of this title.

Prior sections 6369, 6369a, 6369b, and 6370 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6369, 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, related to evaluation of Even Start programs. See section 6381h of this title.

Section 6369a, 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, related to indicators of Even Start program quality. See section 6381i of this title.

Section 6369b, 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, authorized research. See section 6381j of this title.

Section 6370, 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, related to construction of provisions. See section 6381k of this title.

SUBPART 2—EARLY READING FIRST

§ 6371. Purposes; definitions

(a) Purposes

The purposes of this subpart are as follows:

(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based reading research.

(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

(3) To demonstrate language and literacy activities based on scientifically based reading research that supports the age-appropriate development of—

(A) recognition, leading to automatic recognition, of letters of the alphabet;

(B) knowledge of letter sounds, the blending of sounds, and the use of increasingly complex vocabulary;

(C) an understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

(D) spoken language, including vocabulary and oral comprehension abilities; and

(E) knowledge of the purposes and conventions of print.

(4) To use screening assessments to effectively identify preschool age children who may be at risk for reading failure.

(5) To integrate such scientific reading research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, Head Start centers, and family literacy services.

(b) Definitions

For purposes of this subpart:

(1) Eligible applicant

The term ''eligible applicant'' means—

(A) one or more local educational agencies that are eligible to receive a subgrant under subpart 1 of this part;

(B) one or more public or private organizations or agencies, acting on behalf of one or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in subparagraph (A); or

(C) one or more local educational agencies described in subparagraph (A) in collaboration with one or more organizations or agencies described in subparagraph (B).

(2) Scientifically based reading research

The term ''scientifically based reading research'' has the same meaning given to that term in section 6368 of this title.

(3) Screening reading assessment

The term ''screening reading assessment'' has the same meaning given to that term in section 6368 of this title.

(Pub. L. 89–10, title I, § 1221, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1552.)

PRIOR PROVISIONS

A prior section 1221 of Pub. L. 89–10 was classified to section 2791 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6372. Local Early Reading First grants

(a) Program authorized

From amounts appropriated under section 6302(b)(2) of this title, the Secretary shall award

grants, on a competitive basis, for periods of not more than 6 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (d) of this section.

(b) Applications

An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary, which shall include a description of—

(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

(2) how the proposed project will enhance the school readiness of preschool age children in high-quality oral language and literature-rich environments;

(3) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-quality language, literacy, and prereading activities using scientifically based reading research, for preschool age children;

(4) how the proposed project will provide services and use instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

(5) how the proposed project will help staff in the programs to meet more effectively the diverse needs of preschool age children in the community, including such children with limited English proficiency, disabilities, or other special needs;

(6) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

(8) if the eligible applicant has received a subgrant under subpart 1 of this part, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1 of this part at the kindergarten through grade 3 level;

(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

(10) such other information as the Secretary may require.

(c) Approval of local applications

The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of a peer review panel convened under section 6363(c)(2) of this title, that includes, at a minimum, three individuals, selected from the entities described in clauses (ii), (iii), and (iv) of section 6363(c)(2)(A) of this title, who are experts in early reading development and early childhood development.

(d) Authorized activities

An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

(1) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

(2) Providing professional development that is based on scientifically based reading research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

(A) recognition, leading to automatic recognition, of letters of the alphabet, knowledge of letters, sounds, blending of letter sounds, and increasingly complex vocabulary;

(B) understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

(C) spoken language, including vocabulary and oral comprehension abilities; and

(D) knowledge of the purposes and conventions of print.

(3) Identifying and providing activities and instructional materials that are based on scientifically based reading research for use in developing the skills and abilities described in paragraph (2).

(4) Acquiring, providing training for, and implementing screening reading assessments or other appropriate measures that are based on scientifically based reading research to determine whether preschool age children are developing the skills described in this subsection.

(5) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

(e) Award amounts

The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

(Pub. L. 89–10, title I, § 1222, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1553.)

PRIOR PROVISIONS

A prior section 1222 of Pub. L. 89–10 was classified to section 2792 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6373. Federal administration

The Secretary shall consult with the Secretary of Health and Human Services to coordinate the activities under this subpart with preschool age programs administered by the Department of Health and Human Services.

(Pub. L. 89–10, title I, § 1223, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1223 of Pub. L. 89–10 was classified to section 2793 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6374. Information dissemination

From the funds the National Institute for Literacy receives under section 6362(b)(1)(D) of this title, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

(Pub. L. 89–10, title I, § 1224, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1224 of Pub. L. 89–10 was classified to section 2794 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6375. Reporting requirements

Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

(2) the types of programs funded under the grant and the ages of children served by such programs;

(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

(4) the results of the evaluation described in section 6372(b)(9) of this title.

(Pub. L. 89–10, title I, § 1225, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1225 of Pub. L. 89–10 was classified to section 2795 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6376. Evaluation

(a) In general

From the total amount made available under section 6302(b)(2) of this title for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $3,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

(b) Reports

(1) Interim report

Not later than October 1, 2004, the Secretary shall submit an interim report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(2) Final report

Not later than September 30, 2006, the Secretary shall submit a final report to the committees described in paragraph (1).

(c) Contents

The reports submitted under subsection (b) of this section shall include information on the following:

(1) How the grant recipients under this subpart are improving the prereading skills of preschool children.

(2) The effectiveness of the professional development program assisted under this subpart.

(3) How early childhood teachers are being prepared with scientifically based reading research on early reading development.

(4) What activities and instructional practices are most effective.

(5) How prereading instructional materials and literacy activities based on scientifically based reading research are being integrated into preschools, child care agencies and programs, programs carried out under the Head Start Act [42 U.S.C. 9831 et seq.], and family literacy programs.

(6) Any recommendations on strengthening or modifying this subpart.

(Pub. L. 89–10, title I, § 1226, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1555.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c)(5), 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.

PRIOR PROVISIONS

A prior section 1226 of Pub. L. 89–10 was classified to section 2796 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 3—WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS

§ 6381. Statement of purpose

It is the purpose of this subpart to help break the cycle of poverty and illiteracy by—

(1) 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''; and

(2) establishing a program that shall—

(A) be implemented through cooperative projects that build on high-quality existing community resources to create a new range of services;

(B) promote the academic achievement of children and adults;

(C) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student achievement standards; and

(D) use instructional programs based on scientifically based reading research and addressing the prevention of reading difficulties for children and adults, to the extent such research is available.

(Pub. L. 89–10, title I, § 1231, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1555.)

§ 6381a. 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)(3) 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 subpart, 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

Subject to paragraph (2), from amounts appropriated under section 6302(b)(3) 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 6381h of this title; and

(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(2) Research

In any fiscal year, if the amount appropriated under section 6302(b)(3) of this title for such year—

(A) is equal to or less than the amount appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multi-year activities carried out pursuant to section 6381j(b) of this title that began during or prior to the fiscal year preceding the fiscal year for which the determination is made; or

(B) exceeds the amount appropriated for the preceding fiscal year, then the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section 6381j(b) of this title.

(c) Reservation for grants

(1) Grants authorized

(A) In general

For any fiscal year for which at least one State educational agency applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 6302(b)(3) of this title exceeds the amount appropriated under that section for the preceding fiscal year, the Secretary shall reserve, from the amount of the excess remaining after the application of subsection (b)(2) of this section, the amount of the remainder or $1,000,000, whichever is less, to award grants, on a competitive basis, to State educational agencies to enable them 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 subpart.

(B) Coordination and integration

The coordination and integration described in subparagraph (A) shall include coordination and integration of 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 subpart, part A of this subchapter, and part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(C) Restriction

No State educational agency may receive more than one grant under this subsection.

(2) Consortia

(A) Establishment

To receive a grant under this subsection, a State educational agency shall establish a consortium of State-level programs under the following provisions of laws:

(i) This subchapter (other than part D).

(ii) The Head Start Act [42 U.S.C. 9831 et seq.].

(iii) The Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.].

(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 educational agency shall create a plan to use a portion of the State educational agency's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in the State.

(C) Coordination with subpart 1

The consortium shall coordinate its activities under this paragraph with the activities of the reading and literacy partnership for the State educational agency established under section 6363(d) of this title, if the State educational agency receives a grant under section 6362 of this title.

(3) Reading instruction

Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research.

(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 State educational agencies receiving a grant under this subsection.

(5) Matching requirement

The Secretary shall not make a grant to a State educational agency under this subsection unless the State educational agency 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 educational agency will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

(d) State educational agency allocation

(1) In general

From amounts appropriated under section 6302(b)(3) of this title and not reserved under subsection (a), (b), or (c) of this section, the Secretary shall make grants to State educational agencies from allocations under paragraph (2).

(2) Allocations

Except as provided in paragraph (3), from the total amount available under paragraph (1) for allocation to State educational agencies in any fiscal year, each State educational agency shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to the total amount as the amount allocated under part A of this subchapter to that State educational agency bears to the total amount allocated under that part to all State educational agencies.

(3) Minimum

No State educational agency shall receive a grant under paragraph (1) in any fiscal year in an amount that is less than $250,000, or one-half of 1 percent of the amount appropriated under section 6302(b)(3) 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 subpart—

(1) the term ''eligible entity'' means a partnership composed of—

(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 those terms in section 450b of title 25;

(4) the term ''scientifically based reading research'' has the meaning given that term in section 6368 of this title; and

(5) 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, § 1232, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1556.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (c)(1)(B), (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)(B), (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)(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.

§ 6381b. State educational agency programs

(a) State educational agency level activities

Each State educational agency that receives a grant under section 6381a(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, which amount shall not exceed half of the 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 sections 6381i and 6381c(c) of this title.

(b) Subgrants for local programs

(1) In general

Each State educational agency shall use the grant funds received under section 6381a(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 educational agency shall award a subgrant under paragraph (1) in an amount less than $75,000.

(B) Subgrantees in ninth and succeeding years

No State educational agency 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 subpart or its predecessor authority for the ninth (or any subsequent) fiscal year.

(C) Exception for single subgrant

A State educational agency 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 that fiscal year in accordance with subparagraphs (A) and (B), less than $75,000 is available to the State educational agency to award those subgrants.

(Pub. L. 89–10, title I, § 1233, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1558.)

§ 6381c. Uses of funds

(a) In general

In carrying out an Even Start program under this subpart, a recipient of funds under this subpart shall use those funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age 7, 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) Federal share

Except as provided in paragraph (2), the Federal share under this subpart may not exceed—

(i) 90 percent of the total cost of the program in the first year that the program receives assistance under this subpart or its predecessor authority;

(ii) 80 percent in the second year;

(iii) 70 percent in the third year;

(iv) 60 percent in the fourth year;

(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

(vi) 35 percent in any subsequent year.

(B) Remaining cost

The remaining cost of a program assisted under this subpart 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 Federal share described in paragraph (1) for an eligible entity if the entity—

(A) demonstrates that it otherwise would not be able to participate in the program assisted under this subpart; 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 subpart may not be used for the indirect costs of a program assisted under this subpart, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 6381a(a)(1)(C) of this title demonstrates to the Secretary's satisfaction that the recipient otherwise would not be able to participate in the program assisted under this subpart.

(c) Use of funds for family literacy services

(1) In general

A State educational agency may use a portion of funds reserved under section 6381b(a) of this title, to assist eligible entities receiving a subgrant under section 6381b(b) of this title in improving the quality of family literacy services provided under Even Start programs under this subpart, except that in no case may a State educational agency'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 educational agency shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State educational agency under section 6381i of this title.

(3) Technical assistance to help local programs raise additional funds

In carrying out paragraph (1), a State educational agency may use the funds referred to in that 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 educational agency 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, § 1234, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1559.)

§ 6381d. Program elements

Each program assisted under this subpart shall—

(1) include the identification and recruitment of families most in need of services provided under this subpart, 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 those parents and children to participate fully in the activities and services provided under this subpart, 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 those services are unavailable from other sources, necessary for participation in the activities assisted under this subpart, 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 subpart; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this subpart;

(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 subpart, ensure that—

(A) not later than December 21, 2004—

(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 school or secondary school education, or adult education; and

(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary school 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 subpart has received training in the operation of a family literacy program; and

(iii) paraprofessionals who provide support for academic instruction have a secondary school diploma or its recognized equivalent; and

(B) 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 school or secondary school education, or adult education; and

(ii) if applicable, meet qualifications established by the State for early childhood education, elementary school 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 subpart;

(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, including instructional and enrichment services, during the summer months;

(9) be coordinated with—

(A) other programs assisted under 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 for children and adults, to the extent that 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, to the extent available, to ensure that 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;

(14) ensure that the programs will serve those families most in need of the activities and services provided by this subpart; and

(15) provide for an independent evaluation of the program, to be used for program improvement.

(Pub. L. 89–10, title I, § 1235, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1560.)

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.

§ 6381e. 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 subpart, or who are attending secondary school; and

(2) the child or children, from birth through age 7, 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 subpart, when appropriate to serve the purpose of this subpart.

(2) Special rule

Any family participating in a program assisted under this subpart that becomes ineligible to participate as a result of one or more members of the family becoming ineligible to participate may continue to participate in the program until all members of the family become ineligible to participate, which—

(A) in the case of a family in which ineligibility was due to the child or children of the family attaining the age of 8, shall be in 2 years or when the parent or parents 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 the family, shall be when all children in the family attain the age of 8.

(3) Children 8 years of age or older

If an Even Start program assisted under this subpart collaborates with a program under part A of this subchapter, and funds received under the part A program contribute to paying the cost of providing programs under this subpart to children 8 years of age or older, the Even Start program may, notwithstanding subsection (a)(2) of this section, 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, § 1236, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1562.)

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.

§ 6381f. Applications

(a) Submission

To be eligible to receive a subgrant under this subpart, 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 subpart; 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

The application shall also include a plan of operation and continuous improvement for the program, that includes—

(A) a description of the program objectives, strategies to meet those objectives, and how those strategies and objectives 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 6381d 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 subpart;

(ii) to provide services under this subpart 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; 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 subpart; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) Consolidated application

The plan described in subsection (c)(1) of this section may be submitted as part of a consolidated application under section 7845 of this title.

(Pub. L. 89–10, title I, § 1237, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1563.)

§ 6381g. 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 subpart; and

(ii) effectively implementing the program elements required under section 6381d of this title;

(B) demonstrate that the area to be served by the program has a high percentage or a large number of children and families who are in need of those 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 served by a local educational agency 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 3-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 6381c(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 subpart may be awarded for a period not to exceed 4 years.

(2) Startup period

The State educational agency may provide subgrant funds to an eligible recipient, at the recipient's request, for a 3- to 6-month startup period during the first year of the 4-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 subpart 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 6381f(c)(1)(A) of this title and shall evaluate the program based on the indicators of program quality developed by the State under section 6381i of this title.

(4) Insufficient progress

The State educational agency may refuse to award subgrant funds to an eligible entity if the 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 6381i 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 subpart may reapply under this subpart for additional subgrants.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 6381c(b) of this title.

(Pub. L. 89–10, title I, § 1238, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1564.)

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.

§ 6381h. Evaluation

From funds reserved under section 6381a(b)(1) of this title, the Secretary shall provide for an independent evaluation of programs assisted under this subpart—

(1) to determine the performance and effectiveness of programs assisted under this subpart;

(2) to identify effective Even Start programs assisted under this subpart that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

(3) to provide State educational agencies and eligible entities receiving a subgrant under this subpart, 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 that local evaluations undertaken under section 6381d(15) of this title provide accurate information on the effectiveness of programs assisted under this subpart.

(Pub. L. 89–10, title I, § 1239, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

§ 6381i. Indicators of program quality

Each State educational agency receiving funds under this subpart shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this subpart. The indicators shall be used to monitor, evaluate, and improve those programs within the State. The 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 secondary school diploma or a general equivalency diploma (GED);

(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, § 1240, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

§ 6381j. Research

(a) In general

The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, in order to—

(1) improve the quality of existing programs assisted under this subpart 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) 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 6381a(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; 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 the parents 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 6367 of this title, the results of the research described in subsections (a) and (b) of this section to State educational agencies and recipients of subgrants under this subpart.

(Pub. L. 89–10, title I, § 1241, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

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.

PRIOR PROVISIONS

A prior section 1241 of Pub. L. 89–10 was classified to section 2801 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6381k. Construction

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart 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, § 1242, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1567.)

PRIOR PROVISIONS

A prior section 1242 of Pub. L. 89–10 was classified to section 2802 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 4—IMPROVING LITERACY THROUGH SCHOOL LIBRARIES

§ 6383. Improving literacy through school libraries

(a) Purposes

The purpose of this subpart is to improve literacy skills and academic achievement of students by providing students with increased ac-

cess to up-to-date school library materials, a well-equipped, technologically advanced school library media center, and well-trained, professionally certified school library media specialists.

(b) Reservation

From the funds appropriated under section 6302(b)(4) of this title for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to award assistance under this section to the Bureau of Indian Affairs to carry out activities consistent with the purpose of this subpart; and

(2) one-half of 1 percent to award assistance under this section to the outlying areas according to their respective needs for assistance under this subpart.

(c) Grants

(1) Competitive grants to eligible local educational agencies

If the amount of funds appropriated under section 6302(b)(4) of this title for a fiscal year is less than $100,000,000, then the Secretary shall award grants, on a competitive basis, to eligible local educational agencies under subsection (e) of this section.

(2) Formula grants to States

If the amount of funds appropriated under section 6302(b)(4) of this title for a fiscal year equals or exceeds $100,000,000, then the Secretary shall award grants to State educational agencies from allotments under subsection (d) of this section.

(3) Definition of eligible local educational agency

In this section the term ''eligible local educational agency'' means—

(A) in the case of a local educational agency receiving assistance made available under paragraph (1), a local educational agency in which 20 percent of the students served by the local educational agency are from families with incomes below the poverty line; and

(B) in the case of a local educational agency receiving assistance from State allocations made available under paragraph (2), a local educational agency in which—

(i) 15 percent of the students who are served by the local educational agency are from such families; or

(ii) the percentage of students from such families who are served by the local educational agency is greater than the statewide percentage of children from such families.

(d) State grants

(1) Allotments

From funds made available under subsection (c)(2) of this section and not reserved under subsections (b) and (j) of this section for a fiscal year, the Secretary shall allot to each State educational agency having an application approved under subsection (f)(1) of this section an amount that bears the same relation to the funds as the amount the State educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount all such State educational agencies received under part A of this subchapter for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

(2) Competitive grants to eligible local educational agencies

Each State educational agency receiving an allotment under paragraph (1) for a fiscal year—

(A) may reserve not more than 3 percent of the allotted funds to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs related to activities under this section; and

(B) shall use the allotted funds that remain after making the reservation under subparagraph (A) to award grants, for a period of 1 year, on a competitive basis, to eligible local educational agencies in the State that have an application approved under subsection (f)(2) of this section for activities described in subsection (g) of this section.

(3) Reallotment

If a State educational agency does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot the amount of the State educational agency's allotment to the remaining State educational agencies in accordance with paragraph (1).

(e) Direct competitive grants to eligible local educational agencies

(1) In general

From amounts made available under subsection (c)(1) of this section and not reserved under subsections (b) and (j) of this section for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible local educational agencies that have applications approved under subsection (f)(2) of this section for activities described in subsection (g) of this section.

(2) Duration

The Secretary shall award grants under this subsection for a period of 1 year.

(3) Distribution

The Secretary shall ensure that grants under this subsection are equitably distributed among the different geographic regions of the United States, and among local educational agencies serving urban and rural areas.

(f) Applications

(1) State educational agency

Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

(A) how the State educational agency will assist eligible local educational agencies in

meeting the requirements of this section and in using scientifically based research to implement effective school library media programs; and

(B) the standards and techniques the State educational agency will use to evaluate the quality and impact of activities carried out under this section by eligible local educational agencies to determine the need for technical assistance and whether to continue to provide additional funding to the agencies under this section.

(2) Eligible local educational agency

Each eligible local educational agency desiring assistance under this section shall submit to the Secretary or State educational agency, as appropriate, an application at such time, in such manner, and containing such information as the Secretary or State educational agency, respectively, shall require. The application shall contain a description of—

(A) a needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of school library media centers to advanced technology, and the availability of well-trained, professionally certified school library media specialists, in schools served by the eligible local educational agency;

(B) the manner in which the eligible local educational agency will use the funds made available through the grant to carry out the activities described in subsection (g) of this section;

(C) how the eligible local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the eligible local educational agency will carry out the activities described in subsection (g) of this section using programs and materials that are grounded in scientifically based research;

(D) the manner in which the eligible local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

(E) the manner in which the eligible local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the eligible local educational agency.

(g) Local activities

Funds under this section may be used to—

(1) acquire up-to-date school library media resources, including books;

(2) acquire and use advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

(4) provide professional development described in section 6372(d)(2) of this title for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

(h) Accountability and reporting

(1) Local reports

Each eligible local educational agency that receives funds under this section for a fiscal year shall report to the Secretary or State educational agency, as appropriate, on how the funding was used and the extent to which the availability of, the access to, and the use of, up-to-date school library media resources in the elementary schools and secondary schools served by the eligible local educational agency was increased.

(2) State report

Each State educational agency that receives funds under this section shall compile the reports received under paragraph (1) and submit the compiled reports to the Secretary.

(i) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

(j) National activities

(1) Evaluations

From the funds appropriated under section 6302(b)(4) of this title for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section and their impact on improving the reading skills of students. The evaluations shall be conducted not later than 3 years after January 8, 2002, and biennially thereafter.

(2) Report to Congress

The Secretary shall transmit the State reports received under subsection (h)(2) of this section and the evaluations conducted under paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(Pub. L. 89–10, title I, § 1251, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1567.)

PART C—EDUCATION OF MIGRATORY CHILDREN

§ 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 who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

(3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

(4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

(5) 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

(6) ensure that migratory children benefit from State and local systemic reforms.

(Pub. L. 89–10, title I, § 1301, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6391, Pub. L. 89–10, title I, § 1301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585, related to program purpose, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6392, Pub. L. 89–10, title I, § 1302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585, authorized migratory children education program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6393. State allocations

(a) State allocations

(1) Fiscal year 2002

For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

(A) the sum of the estimated number of migratory children aged 3 through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged 3 through 21 who reside in the State part time, as determined in accordance with subsection (e) of this section; multiplied by

(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, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Subsequent years

(A) Base amount

(i) In general

Except as provided in subsection (b) of this section and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State received under this part for fiscal year 2002; plus

(II) the amount allocated to the State under subparagraph (B).

(ii) Nonparticipating States

In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 6394 of this title for the year had been approved; plus

(II) the amount allocated to the State under subparagraph (B).

(B) Allocation of additional amount

For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

(i) the sum of—

(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(b) Allocation to Puerto Rico

(1) In general

For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1)(A) of this section if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(A) 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; and

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

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than—

(A) for fiscal year 2002, 77.5 percent;

(B) for fiscal year 2003, 80.0 percent;

(C) for fiscal year 2004, 82.5 percent; and

(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

(3) Limitation

If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

(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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6393, Pub. L. 89–10, title I, § 1303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(B) joint planning among local, State, and Federal educational programs serving migrant children, including language instruction educational programs under part A or B of subchapter III of this chapter;

(C) the integration of services available under this part with services provided by those other programs; and

(D) measurable program goals and outcomes;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement 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 numbers and needs of migratory children, the requirements of subsection (d) of this section, and the availability of funds from other Federal, State, and local programs;

(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 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, subsections (b) and (c) of section 6321 of this title, and part I of this subchapter;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parent advisory councils for programs of 1 school year in duration, and that all such programs and projects are carried out—

(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 6318 of this title, unless extraordinary circumstances make such provision impractical; and

(B) in a format and language understandable to the parents;

(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 paragraphs (1)(A) and (2)(B)(i) of section 6393(a) 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 academic content standards and challenging State student academic achievement 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 1 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1574.)

REFERENCES TO PARTS A AND B OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PARTS B AND A OF SUBCHAPTER III

References to parts A and B of subchapter III of this chapter are considered to be references to parts B and A, respectively, of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 6394, 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, related to State applications and services, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1576.)

PRIOR PROVISIONS

A prior section 6395, Pub. L. 89–10, title I, § 1305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3588, related to Secretarial approval and peer review, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 7842 of this title, if—

(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards 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 language instruction educational programs under part A or B of subchapter III 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) Flexibility

In implementing the comprehensive plan described in subsection (a) of this section, each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

(2) Unaddressed needs

Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this subchapter may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

(3) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

(4) 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), and shall meet the special educational needs of migratory children before using funds under this part for schoolwide programs under section 6314 of this title.

(Pub. L. 89–10, title I, § 1306, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1576.)

REFERENCES TO PARTS A AND B OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PARTS B AND A OF SUBCHAPTER III

References to parts A and B of subchapter III of this chapter are considered to be references to parts B and A, respectively, of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 6396, Pub. L. 89–10, title I, § 1306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3589, related to comprehensive needs assessments and service-delivery plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1578.)

PRIOR PROVISIONS

A prior section 6397, Pub. L. 89–10, title I, § 1307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590, related to bypass of State, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 subsection may be awarded for not more than 5 years.

(b) Student records

(1) Assistance

The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.

(2) Information system

(A) In general

The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, January 8, 2002, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—

(i) immunization records and other health information;

(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 6311(b) of this title;

(iii) other academic information essential to ensuring that migratory children achieve to high standards; and

(iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(B) Notice and comment

After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information. Such publication shall occur not later than 120 days after January 8, 2002.

(3) No cost for certain transfers

A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

(4) Report to Congress

(A) In general

Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

(B) Required contents

The Secretary shall include in such report—

(i) a review of the progress of States in developing and linking electronic records transfer systems;

(ii) recommendations for the development and linkage of such systems; and

(iii) recommendations for measures that may be taken to ensure the continuity of services provided for migratory students.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

(e) Data collection

The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

(Pub. L. 89–10, title I, § 1308, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1578.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(A)(iv), 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 6398, Pub. L. 89–10, title I, § 1308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590, related to coordination of migrant education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 or spouse 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 or spouse, 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1579.)

PRIOR PROVISIONS

A prior section 6399, Pub. L. 89–10, title I, § 1309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

§ 6421. Purpose and program authorization

(a) Purpose

It is the purpose of this part—

(1) to improve educational services for children and youth 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 academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

(2) to provide such children and youth with 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 children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

(b) Program authorized

In order to carry out the purpose of this part and from amounts appropriated under section 6302(d) of this title, 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, delinquent, or at-risk children and youth.

(Pub. L. 89–10, title I, § 1401, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6421, Pub. L. 89–10, title I, § 1401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591, set out findings and purpose and authorized program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1401 of Pub. L. 89–10 was classified to section 2821 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 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 an amount necessary to make subgrants to State agencies under subpart 1 of this part.

(b) Local subgrants

Each State shall retain, for the purpose of carrying out subpart 2 of this part, funds generated

throughout the State under part A of this subchapter based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(Pub. L. 89–10, title I, § 1402, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6422, Pub. L. 89–10, title I, § 1402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to payments for programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1402 of Pub. L. 89–10 was classified to section 2822 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—STATE AGENCY PROGRAMS

§ 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 and youth—

(1) in institutions for neglected or delinquent children and youth;

(2) attending community day programs for neglected or delinquent children and youth; or

(3) in adult correctional institutions.

(Pub. L. 89–10, title I, § 1411, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6431, Pub. L. 89–10, title I, § 1411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to eligibility, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 subpart, for each fiscal year, in 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 and youth; or

(II) in community day programs for neglected or delinquent children and youth; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor 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 and youth 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

(1) In general

For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) of this section for the Commonwealth of Puerto Rico by the product of—

(A) 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; and

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

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than—

(A) for fiscal year 2002, 77.5 percent;

(B) for fiscal year 2003, 80.0 percent;

(C) for fiscal year 2004, 82.5 percent; and

(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

(3) Limitation

If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

(A) the percentage in paragraph (1)(A) for such fiscal year; or

(B) the percentage used for the preceding fiscal year.

(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 State 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6432, Pub. L. 89–10, title I, § 1412, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to allocation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 eli-

gible under this subpart 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1582.)

PRIOR PROVISIONS

A prior section 6433, Pub. L. 89–10, title I, § 1413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3593, related to State reallocation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 subpart shall submit, for approval by the Secretary, a plan—

(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

(C) that is integrated with other programs under this chapter or other Acts, as appropriate.

(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 the academic, vocational, and technical skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; and

(C) contain an assurance that the State educational agency will—

(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

(ii) carry out the evaluation requirements of section 6471 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 and peer review

(1) Secretarial approval

The Secretary shall approve each State plan that meets the requirements of this subpart.

(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 subpart 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 under this subpart;

(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and 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;

(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 State agency will carry out the evaluation requirements of section 7941 of this title and how the results of the most recent evaluation will be used to plan and improve the program;

(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 7901 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 Public Law 105–220 [29 U.S.C. 2801 et seq.], vocational and technical education programs, State and local dropout prevention programs, and special education programs;

(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

(10) describes how appropriate professional development will be provided to teachers and other staff;

(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of children and youth from such facility or institution to locally operated programs;

(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

(B) intends to return to the local school;

(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or achieve a secondary school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(17) provides an assurance that teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

(19) provides an assurance 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1582.)

REFERENCES IN TEXT

Pub. L. 105–220, referred to in subsec. (c)(8), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. 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)(19), 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.

PRIOR PROVISIONS

A prior section 6434, 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, related to State plan and State agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6435. Use of funds

(a) Uses

(1) In general

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, vocational or technical training, 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 and youth identified by the State agency as failing, or most at-risk of failing, to meet the State's challenging academic content standards and student academic achievement standards;

(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

(iii) afford such children and youth an opportunity to meet challenging State academic achievement standards;

(C) shall be carried out in a manner consistent with section 6321 of this title and part I of this subchapter (as applied to programs and projects under this part); and

(D) may include the costs of meeting the evaluation requirements of section 7941 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 6321 of this title (as applied to this part) 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1585.)

PRIOR PROVISIONS

A prior section 6435, Pub. L. 89–10, title I, § 1415, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3596, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution

for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart 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 children and 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 2-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet challenging State academic content standards and student academic achievement standards in order to improve the likelihood that the children and youth will complete secondary school, attain a 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 the children and youth described in paragraph (1);

(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 youth, and with 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1585.)

PRIOR PROVISIONS

A prior section 6436, Pub. L. 89–10, title I, § 1416, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3596, related to institution-wide projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children or youth are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this subpart for a period of not more than 3 years.

(Pub. L. 89–10, title I, § 1417, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1586.)

PRIOR PROVISIONS

A prior section 6437, Pub. L. 89–10, title I, § 1417, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597, related to three-year programs and projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6438. Transition services

(a) Transition services

Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—

(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

(2) the successful reentry of youth offenders, who are age 20 or younger and have received a secondary school diploma or its recognized equivalent, into postsecondary education, or vocational and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or vocational and technical training programs, such as—

(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

(C) essential support services to ensure the success of the youth, such as—

(i) personal, vocational and technical, and academic, counseling;

(ii) placement services designed to place the youth in a university, college, or junior college program;

(iii) information concerning, and assistance in obtaining, available student financial aid;

(iv) counseling services; and

(v) job placement services.

(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) Rule of 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 and youth 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1586.)

PRIOR PROVISIONS

A prior section 6438, Pub. L. 89–10, title I, § 1418, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597, related to transition services, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6439. Evaluation; technical assistance; annual model program

The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year—

(1) to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and

(2) to provide technical assistance to and support the capacity building of State agency programs assisted under this subpart.

(Pub. L. 89–10, title I, § 1419, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1587.)

SUBPART 2—LOCAL AGENCY PROGRAMS

§ 6451. Purpose

The purpose of this subpart is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

(Pub. L. 89–10, title I, § 1421, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1587.)

PRIOR PROVISIONS

A prior section 6451, Pub. L. 89–10, title I, § 1421, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597, related to purpose of subpart, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6452. Programs operated by local educational agencies

(a) Local subgrants

With funds 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 children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

(b) Special rule

A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after 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.

(d) Transitional and academic services

Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

(Pub. L. 89–10, title I, § 1422, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1587.)

PRIOR PROVISIONS

A prior section 6452, Pub. L. 89–10, title I, § 1422, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598, related to programs operated by local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6453. Local educational agency applications

Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that contains 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, regarding the program to be assisted, between—

(A) the local educational agency; and

(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

(6) as appropriate, a description of how schools will coordinate with existing social,

health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, 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 Public Law 105–220 [29 U.S.C. 2801 et seq.] and vocational and technical education programs serving at-risk children and 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 children and youth returning from correctional facilities;

(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1588.)

REFERENCES IN TEXT

Pub. L. 105–220, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. 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.

PRIOR PROVISIONS

A prior section 6453, 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, related to local educational agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6454. Uses of funds

Funds provided to local educational agencies under this subpart may be used, as appropriate, for—

(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

(2) dropout prevention programs which serve at-risk children and youth, including pregnant and parenting teens, children and youth who have come in contact with the juvenile justice system, children and youth at least 1 year behind their expected grade level, migrant youth, immigrant youth, students with limited English proficiency, and gang members;

(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

(4) special programs to meet the unique academic needs of participating children and youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

(5) programs providing mentoring and peer mediation.

(Pub. L. 89–10, title I, § 1424, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1589.)

PRIOR PROVISIONS

A prior section 6454, Pub. L. 89–10, title I, § 1424, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599, related to uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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 6453(2) of this title to provide services to children and youth under this subpart shall—

(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

(3) where feasible, provide transition assistance to help the child or 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 that encourage children and youth who have dropped out of school to reenter school once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a secondary school diploma or its recognized equivalent;

(5) work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

(6) ensure that educational programs in the correctional facility are related to assisting students to meet high academic achievement standards;

(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional 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 subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220 [29 U.S.C. 2801 et seq.], and vocational and technical 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, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth.

(Pub. L. 89–10, title I, § 1425, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1589.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (1), 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.

Pub. L. 105–220, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. 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.

PRIOR PROVISIONS

A prior section 6455, 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, related to program requirements for correctional facilities receiving funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6456. Accountability

The State educational agency may—

(1) reduce or terminate funding for projects under this subpart 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 correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such children and youth are released.

(Pub. L. 89–10, title I, § 1426, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1590.)

PRIOR PROVISIONS

A prior section 6456, Pub. L. 89–10, title I, § 1426, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600, related to accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

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 gender, race, ethnicity, and age, not less than once every 3 years, to determine the program's impact on the ability of participants—

(1) to maintain and improve educational achievement;

(2) to accrue school credits that meet State requirements for grade promotion and secondary school graduation;

(3) to make the transition to a regular program or other education program operated by a local educational agency;

(4) to complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and

(5) as appropriate, to participate in postsecondary education and job training programs.

(b) Exception

The disaggregation required under subsection (a) of this section shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(c) 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.

(d) Evaluation results

Each State agency and local educational agency shall—

(1) submit evaluation results to the State educational agency and the Secretary; 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1591.)

PRIOR PROVISIONS

A prior section 6471, Pub. L. 89–10, title I, § 1431, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600, related to program evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1431 of Pub. L. 89–10 was classified to section 2831 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6472. Definitions

In this part:

(1) Adult correctional institution

The term ''adult correctional institution'' means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

(2) At-risk

The term ''at-risk'', when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, has limited English proficiency, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

(3) Community day program

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 and youth.

(4) Institution for neglected or delinquent children and youth

The term ''institution for neglected or delinquent children and youth'' means—

(A) 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; or

(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

(Pub. L. 89–10, title I, § 1432, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1591.)

PRIOR PROVISIONS

A prior section 6472, Pub. L. 89–10, title I, § 1432, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1432 of Pub. L. 89–10 was classified to section 2832 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART E—NATIONAL ASSESSMENT OF SUBCHAPTER I

§ 6491. Evaluations

(a) National assessment of subchapter I

(1) In general

The Secretary shall conduct a national assessment of the programs assisted under this subchapter and the impact of this subchapter on States, local educational agencies, schools, and students.

(2) Issues to be examined

In conducting the assessment under this subsection, the Secretary shall examine, at a minimum, the following:

(A) The implementation of programs assisted under this subchapter and the impact of such implementation on increasing student academic achievement (particularly in schools with high concentrations of children living in poverty), relative to the goal of all students reaching the proficient level of achievement based on State academic assessments, challenging State academic content standards, and challenging State student academic achievement standards under section 6311 of this title.

(B) The types of programs and services that have demonstrated the greatest likelihood of helping students reach the proficient and advanced levels of achievement based on State student academic achievement standards and State academic content standards.

(C) The implementation of State academic standards, assessments, and accountability systems developed under this subchapter, including—

(i) the time and cost required for the development of academic assessments for students in grades 3 through 8;

(ii) how well such State assessments meet the requirements for assessments described in this subchapter; and

(iii) the impact of such standards, assessments, and accountability systems on educational programs and instruction at the local level.

(D) Each State's definition of adequate yearly progress, including—

(i) the impact of applying this definition to schools, local educational agencies, and the State;

(ii) the number of schools and local educational agencies not meeting this definition; and

(iii) the changes in the identification of schools in need of improvement as a result of such definition.

(E) How schools, local educational agencies, and States have—

(i) publicized and disseminated the local educational agency report cards required under section 6311(h)(2) of this title to teachers, school staff, students, parents, and the community;

(ii) used funds made available under this subchapter to provide preschool and family literacy services and the impact of these services on students' school readiness;

(iii) implemented the provisions of section 6318 of this title and afforded parents meaningful opportunities to be involved in the education of their children;

(iv) used Federal, State, and local educational agency funds and resources to support schools and provide technical assistance to improve the achievement of students in low-performing schools, including the impact of the technical assistance on such achievement; and

(v) used State educational agency and local educational agency funds and resources to help schools in which 50 percent or more of the students are from families with incomes below the poverty line meet the requirement described in section 6319 of this title of having all teachers highly qualified not later than the end of the 2005–2006 school year.

(F) The implementation of schoolwide programs and targeted assistance programs under this subchapter and the impact of such programs on improving student academic achievement, including the extent to which schools meet the requirements of such programs.

(G) The extent to which varying models of comprehensive school reform are funded and implemented under this subchapter, and the effect of the implementation of such models on improving achievement of disadvantaged students.

(H) The costs as compared to the benefits of the activities assisted under this subchapter.

(I) The extent to which actions authorized under section 6316 of this title are implemented by State educational agencies and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions, including the following:

(i) The number of schools identified for school improvement and how many years the schools remain in this status.

(ii) The types of support provided by the State educational agencies and local educational agencies to schools and local educational agencies respectively identified as in need of improvement, and the impact of such support on student achievement.

(iii) The number of parents who take advantage of the public school choice provisions of this subchapter, the costs (including transportation costs) associated with implementing these provisions, the implementation of these provisions, and the impact of these provisions (including the impact of attending another school) on student achievement.

(iv) The number of parents who choose to take advantage of the supplemental educational services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental educational services on student achievement.

(v) The implementation and impact of actions that are taken with regard to schools and local educational agencies identified for corrective action and restructuring.

(J) The extent to which State and local fiscal accounting requirements under this subchapter affect the flexibility of schoolwide programs.

(K) The implementation and impact of the professional development activities assisted under this subchapter and subchapter II of this chapter on instruction, student academic achievement, and teacher qualifications.

(L) The extent to which the assistance made available under this subchapter, including funds under section 6302 of this title, is targeted to disadvantaged students, schools, and local educational agencies with the greatest need.

(M) The effectiveness of Federal administration assistance made available under this subchapter, including monitoring and technical assistance.

(N) The academic achievement of the groups of students described in section 6311(b)(2)(C)(v)(II) of this title.

(O) Such other issues as the Secretary considers appropriate.

(3) Sources of information

In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 9622 of this title), State evaluations, and other research studies.

(4) Coordination

In carrying out this subsection, the Secretary shall—

(A) coordinate the national assessment under this subsection with the longitudinal study described in subsection (c) of this section; and

(B) ensure that the independent review panel described in subsection (d) of this section participates in conducting the national assessment under this subsection, including planning for and reviewing the assessment.

(5) Developmentally appropriate measures

In conducting the national assessment under this subsection, the Secretary shall use developmentally appropriate measures to assess student academic achievement.

(6) Reports

(A) Interim report

Not later than 3 years after January 8, 2002, the Secretary shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate an interim report on the national assessment conducted under this subsection.

(B) Final report

Not later than 5 years after January 8, 2002, the Secretary shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a final report on the national assessment conducted under this subsection.

(b) Studies and data collection

(1) In general

In addition to other activities described in this section, the Secretary may, directly or through awarding grants to or entering into contracts with appropriate entities—

(A) assess the implementation and effectiveness of programs under this subchapter;

(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

(C) provide guidance and technical assistance to State educational agencies and local educational agencies in developing and maintaining management information systems through which such agencies may develop program performance indicators to improve services and performance.

(2) Minimum information

In carrying out this subsection, the Secretary shall collect, at a minimum, trend information on the effect of each program authorized under this subchapter, which shall complement the data collected and reported under subsections (a) and (c) of this section.

(c) National longitudinal study

(1) In general

The Secretary shall conduct a longitudinal study of schools receiving assistance under part A of this subchapter.

(2) Issues to be examined

In carrying out this subsection, the Secretary shall ensure that the study referred to in paragraph (1) provides Congress and educators with each of the following:

(A) An accurate description and analysis of the short- and long-term effect of the assistance made available under this subchapter on academic achievement.

(B) Information that can be used to improve the effectiveness of the assistance made available under this subchapter in enabling students to meet challenging academic achievement standards.

(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children.

(D) An analysis of the costs as compared to the benefits of the assistance made available under this subchapter in improving the achievement of disadvantaged children.

(E) An analysis of the effects of the availability of school choice options under section 6316 of this title on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options.

(F) Such other information as the Secretary considers appropriate.

(3) Scope

In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

(A) bases its analysis on a nationally representative sample of schools participating in programs under this subchapter;

(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

(C) analyzes varying models or strategies for delivering school services, including—

(i) schoolwide and targeted services; and

(ii) comprehensive school reform models.

(d) Independent Review Panel

(1) In general

The Secretary shall establish an independent review panel (in this subsection referred to as the ''Review Panel'') to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c) of this section.

(2) Appointment of members

(A) In general

Subject to subparagraph (B), the Secretary shall appoint members of the Review Panel from among qualified individuals who are—

(i) specialists in statistics, evaluation, research, and assessment;

(ii) education practitioners, including teachers, principals, and local and State superintendents;

(iii) parents and members of local school boards or other organizations involved with the implementation and operation of programs under this subchapter; and

(iv) other individuals with technical expertise who will contribute to the overall rigor and quality of the program evaluation.

(B) Limitations

In appointing members of the Review Panel, the Secretary shall ensure that—

(i) in order to ensure diversity, the Review Panel includes individuals appointed under subparagraph (A)(i) who represent disciplines or programs outside the field of education; and

(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iv) does not exceed one-fourth of the total number of the individuals appointed under this paragraph.

(3) Functions

The Review Panel shall consult with and advise the Secretary—

(A) to ensure that the assessment conducted under subsection (a) of this section and the study conducted under subsection (c) of this section—

(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

(ii) use valid and reliable measures to document program implementation and impacts; and

(B) to ensure—

(i) that the final report described in subsection (a)(6)(B) of this section is reviewed not later than 120 days after its completion by not less than two independent experts in program evaluation (who may be from among the members of the Review Panel appointed under paragraph (2));

(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a) of this section; and

(iii) that the comments of such experts are transmitted with the report under subsection (a)(6)(B) of this section.

(Pub. L. 89–10, title I, § 1501, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1592; amended Pub. L. 107–279, title IV, § 404(d)(4), Nov. 5, 2002, 116 Stat. 1986.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b)(1)(B), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 6491, 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, related to evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1501 of Pub. L. 89–10 was classified to section 2911 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–279 substituted ''section 9622 of this title'' for ''section 9010 of this title''.

§ 6492. Demonstrations of innovative practices

(a) In general

From the funds appropriated for any fiscal year under section 6302(e)(1) of this title, the Secretary may award 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 academic content standards and challenging State student academic achievement standards.

(b) 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.

(c) Partnerships

From funds appropriated under section 6302(e)(1) 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. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1597.)

PRIOR PROVISIONS

A prior section 6492, Pub. L. 89–10, title I, § 1502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3604, related to demonstrations of innovative practices, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1502 of Pub. L. 89–10 was classified to section 2912 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6493. Assessment evaluation

(a) In general

The Secretary shall conduct an independent study of assessments used for State accountability purposes and for making decisions about the promotion and graduation of students. Such research shall be conducted over a period not to exceed 5 years and shall address the components described in subsection (d) of this section.

(b) Contract authorized

The Secretary is authorized to award a contract, through a peer review process, to an organization or entity capable of conducting rigorous, independent research. The Assistant Secretary of Educational Research and Improvement shall appoint peer reviewers to evaluate the applications for this contract.

(c) Study

The study shall—

(1) synthesize and analyze existing research that meets standards of quality and scientific rigor; and

(2) evaluate academic assessment and accountability systems in State educational agencies, local educational agencies, and schools; and

(3) make recommendations to the Department and to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor, and Pensions of the United States Senate, based on the findings of the study.

(d) Components of the research program

The study described in subsection (a) of this section shall examine—

(1) the effect of the assessment and accountability systems described in section[1] (c) on

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

students, teachers, parents, families, schools, school districts, and States, including correlations between such systems and—

(A) student academic achievement, progress to the State-defined level of proficiency, and progress toward closing achievement gaps, based on independent measures;

(B) changes in course offerings, teaching practices, course content, and instructional material;

(C) changes in turnover rates among teachers, principals, and pupil-services personnel;

(D) changes in dropout, grade-retention, and graduation rates for students; and

(E) such other effects as may be appropriate;

(2) the effect of the academic assessments on students with disabilities;

(3) the effect of the academic assessments on low, middle, and high socioeconomic status students, limited and nonlimited English proficient students, racial and ethnic minority students, and nonracial or nonethnic minority students;

(4) guidelines for assessing the validity, reliability, and consistency of those systems using nationally recognized professional and technical standards;

(5) the relationship between accountability systems and the inclusion or exclusion of students from the assessment system; and

(6) such other factors as the Secretary finds appropriate.

(e) Reporting

Not later than 3 years after the contract described in subsection (b) of this section is awarded, the organization or entity conducting the study shall submit an interim report to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor and Pensions of the United States Senate, and to the President and the States, and shall make the report widely available to the public. The organization or entity shall submit a final report to the same recipients as soon as possible after the completion of the study. Additional reports may be periodically prepared and released as necessary.

(f) Reservation of funds

The Secretary may reserve up to 15 percent of the funds authorized to be appropriated for this part to carry out the study, except such reservation of funds shall not exceed $1,500,000.

(Pub. L. 89–10, title I, § 1503, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1597.)

PRIOR PROVISIONS

A prior section 6493, 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, prior to repeal by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

§ 6494. Close Up fellowship program

(a) Program for middle school and secondary school students

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants 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 civic responsibility and understanding of the Federal Government among middle school and secondary school students.

(B) Use of funds

Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the programs described in subparagraph (A).

(C) Name of fellowships

Financial assistance received by students pursuant to this subsection shall be known as Close Up fellowships.

(2) Applications

(A) Application required

No grant under this subsection 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 application submitted under this paragraph shall contain assurances that—

(i) Close Up fellowships provided under this subsection shall be made to economically disadvantaged middle school and secondary school students;

(ii) every effort shall be made to ensure the participation of students from rural, small town, and urban areas;

(iii) in awarding the fellowships to economically disadvantaged students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, ethnic minority students, and students with migrant parents; and

(iv) the funds received under this subsection shall be properly disbursed.

(b) Program for middle school and secondary school teachers

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants 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 professional development for middle school and secondary school teachers and its programs to increase civic responsibility and understanding of the Federal Government among the teachers' students.

(B) Use of funds

Grants under this subsection shall be used only to provide financial assistance to teachers who participate in the programs described in subparagraph (A).

(C) Name of fellowships

Financial assistance received by teachers pursuant to this subsection shall be known as Close Up fellowships.

(2) Applications

(A) Application required

No grant under this subsection 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 application submitted under this paragraph shall contain assurances that—

(i) Close Up fellowships provided under this subsection shall be made only to a teacher who has worked with at least one student from such teacher's school who participates in a program described in subsection (a)(1)(A) of this section;

(ii) no teacher shall receive more than one such fellowship in any fiscal year; and

(iii) the funds received under this subsection shall be properly disbursed.

(c) Programs for new Americans

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants 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 civic responsibility and understanding of the Federal Government among economically disadvantaged middle school and secondary school recent immigrant students.

(B) Definition

In this subsection, the term ''recent immigrant student'' means a student who is a member of a family that immigrated to the United States within 5 years of the student's participation in such a program.

(C) Use of funds

Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged recent immigrant students and their teachers who participate in the programs described in subparagraph (A).

(D) Name of fellowships

Financial assistance received by students and teachers pursuant to this subsection shall be known as Close Up Fellowships for New Americans.

(2) Applications

(A) Application required

No grant under this subsection 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 application submitted under this paragraph shall contain assurances that—

(i) Close Up Fellowships for New Americans shall be made to economically disadvantaged middle school and secondary school recent immigrant students;

(ii) every effort shall be made to ensure the participation of recent immigrant students from rural, small town, and urban areas;

(iii) in awarding the fellowships to economically disadvantaged recent immigrant students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents, and ethnic minority students;

(iv) fully describe the activities to be carried out with the proceeds of the grant made under paragraph (1); and

(v) the funds received under this subsection shall be properly disbursed.

(d) General provisions

(1) Administrative provisions

(A) Accountability

In consultation with the Secretary, the Close Up Foundation shall devise and implement procedures to measure the efficacy of the programs authorized in subsections (a), (b), and (c) of this section in attaining objectives that include the following:

(i) Providing young people with an increased understanding of the Federal Government.

(ii) Heightening a sense of civic responsibility among young people.

(iii) Enhancing the skills of educators in teaching young people about civic responsibility, the Federal Government, and attaining citizenship competencies.

(B) General rule

Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments.

(C) 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 section.

(2) Continuation of awards

Notwithstanding any other provision of this chapter, any person or entity that was awarded a grant under part G of title X before January 8, 2002, shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

(Pub. L. 89–10, title I, § 1504, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1598.)

REFERENCES IN TEXT

Part G of title X before January 8, 2002, referred to in subsec. (d)(2), means part G of title X of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841, which was classified generally to part G (§ 8161 et seq.) of subchapter X of this chapter, prior to repeal by Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

PART F—COMPREHENSIVE SCHOOL REFORM

§ 6511. Purpose

The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State academic content and academic achievement standards.

(Pub. L. 89–10, title I, § 1601, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1601.)

PRIOR PROVISIONS

A prior section 6511, Pub. L. 89–10, title I, § 1601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3609, related to Federal regulations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6571 of this title.

§ 6512. Program authorization

(a)[1] Program authorized

(1) In general

The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 6511 of this title.

(2) Allotments

(A) Reservations

Of the amount appropriated under section 6302(f) of this title, the Secretary may reserve—

(i) not more than 1 percent for each fiscal year to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part;

(ii) not more than 1 percent for each fiscal year to conduct national evaluation activities described in section 6517 of this title; and

(iii) not more than 3 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described in section 6518 of this title.

(B) In general

Of the amount appropriated under section 6302(f) of this title that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 6333 of this title to the State for the preceding fiscal year bears to the total amount made available under section 6333 of this title to all States for that year.

(C) Reallotment

If a State does not apply for funds under this section, the Secretary shall reallot such funds to other States that do apply in proportion to the amount allotted to such other States under subparagraph (B).

(Pub. L. 89–10, title I, § 1602, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1601.)

PRIOR PROVISIONS

A prior section 6512, Pub. L. 89–10, title I, § 1602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3610, related to coordination of Federal, State, and local administration, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6513. State applications

(a) In general

Each State educational agency that desires to receive a grant 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.

(b) Contents

Each such application shall describe—

(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

(2) how the State educational agency will ensure that funds under this part are limited to comprehensive school reform programs that—

(A) include each of the components described in section 6516(a) of this title;

(B) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

(C) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high quality materials, professional development for school personnel, and on-site support during the full implementation period of the reforms;

(3) how the State educational agency will disseminate materials and information on comprehensive school reforms that are based on scientifically based research and effective practices;

(4) how the State educational agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic achievement; and

(5) how the State educational agency will provide technical assistance to the local educational agency or consortia of local educational agencies, and to participating

[1] So in original. No subsec. (b) has been enacted.

schools, in evaluating, developing, and implementing comprehensive school reform.

(Pub. L. 89–10, title I, § 1603, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1602.)

PRIOR PROVISIONS

A prior section 6513, Pub. L. 89–10, title I, § 1603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3611, related to State administration, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6573 of this title.

§ 6514. State use of funds

(a) In general

Except as provided in subsection (e) of this section, a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A of this subchapter, to support comprehensive school reforms in schools that are eligible for funds under part A of this subchapter.

(b) Subgrant requirements

A subgrant to a local educational agency or consortium shall be—

(1) of sufficient size and scope to support the initial costs of comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

(2) in an amount not less than $50,000—

(A) for each participating school; or

(B) for each participating consortium of small schools (which for purposes of this subparagraph means a consortium of small schools serving a total of not more than 500 students); and

(3) renewable for two additional 1-year subgrant periods after the initial 1-year subgrant is made if the school is or the schools are making substantial progress in the implementation of reforms.

(c) Priority

A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 6316(c) of this title; and

(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

(d) Grant consideration

In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

(e) Administrative costs

A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

(f) Supplement

Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

(g) Reporting

Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, a description of the comprehensive school reforms selected and used, and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and the student achievement results.

(Pub. L. 89–10, title I, § 1604, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1603.)

PRIOR PROVISIONS

A prior section 6514, Pub. L. 89–10, title I, § 1604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612, related to construction of provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6576 of this title.

§ 6515. Local applications

(a) In general

Each local educational agency or consortium of local educational agencies desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) Contents

Each such application shall—

(1) identify the schools that are eligible for assistance under part A of this subchapter and plan to implement a comprehensive school reform program, including the projected costs of such a program;

(2) describe the comprehensive school reforms based on scientifically based research and effective practices that such schools will implement;

(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the comprehensive school reforms based on scientifically based research and effective practices selected by such schools; and

(4) describe how the local educational agency or consortium will evaluate the implementation of such comprehensive school reforms and measure the results achieved in improving student academic achievement.

(Pub. L. 89–10, title I, § 1605, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1604.)

§ 6516. Local use of funds

(a) Uses of funds

A local educational agency or consortium that receives a subgrant under this part shall provide

the subgrant funds to schools that are eligible for assistance under part A of this subchapter and served by the agency, to enable the schools to implement a comprehensive school reform program that—

(1) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically based research and effective practices and have been replicated successfully in schools;

(2) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive school reform plan for schoolwide change designed to enable all students to meet challenging State content and student academic achievement standards and addresses needs identified through a school needs assessment;

(3) provides high quality and continuous teacher and staff professional development;

(4) includes measurable goals for student academic achievement and benchmarks for meeting such goals;

(5) is supported by teachers, principals, administrators, school personnel staff, and other professional staff;

(6) provides support for teachers, principals, administrators, and other school staff;

(7) provides for the meaningful involvement of parents and the local community in planning, implementing, and evaluating school improvement activities consistent with section 6318 of this title;

(8) uses high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

(9) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

(10) identifies other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform effort; and

(11)(A) has been found, through scientifically based research to significantly improve the academic achievement of students participating in such program as compared to students in schools who have not participated in such program; or

(B) has been found to have strong evidence that such program will significantly improve the academic achievement of participating children.

(b) Special rule

A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may develop the school's own comprehensive school reform program for schoolwide change as described in subsection (a) of this section.

(Pub. L. 89–10, title I, § 1606, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1604.)

§ 6517. Evaluation and reports

(a) In general

The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

(b) Evaluation

The national evaluation shall—

(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

(c) Reports

The Secretary shall submit a report describing the results of the evaluation under subsection (b) of this section for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

(Pub. L. 89–10, title I, § 1607, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1605.)

§ 6518. Quality initiatives

The Secretary, through grants or contracts, shall provide funds for—

(1) a public-private effort, in which funds are matched by private organizations, to assist States, local educational agencies, and schools, in making informed decisions regarding approving or selecting providers of comprehensive school reform, consistent with the requirements described in section 6516(a) of this title; and

(2) activities to foster the development of comprehensive school reform models and to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote financial stability.

(Pub. L. 89–10, title I, § 1608, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1605.)

PART G—ADVANCED PLACEMENT PROGRAMS

§ 6531. Short title

This part may be cited as the ''Access to High Standards Act''.

(Pub. L. 89–10, title I, § 1701, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6532. Purposes

The purposes of this part are—

(1) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

(2) to encourage more of the 600,000 students who take advanced placement courses each year but do not take advanced placement exams each year, to demonstrate their achievements through taking the exams;

(3) to build on the many benefits of advanced placement programs for students, which bene-

fits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Test (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

(4) to increase the availability and broaden the range of schools, including middle schools, that have advanced placement and pre-advanced placement programs;

(5) to demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

(6) to provide greater access to advanced placement and pre-advanced placement courses and highly trained teachers for low-income and other disadvantaged students;

(7) to provide access to advanced placement courses for secondary school students at schools that do not offer advanced placement programs, increase the rate at which secondary school students participate in advanced placement courses, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded;

(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees; and

(9) to increase the number of individuals that achieve a baccalaureate or advanced degree, and to decrease the amount of time such individuals require to attain such degrees.

(Pub. L. 89–10, title I, § 1702, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6533. Funding distribution rule

From amounts appropriated under section 6302(g) of this title for a fiscal year, the Secretary shall give priority to funding activities under section 6534 of this title and shall distribute any remaining funds under section 6535 of this title.

(Pub. L. 89–10, title I, § 1703, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6534. Advanced placement test fee program

(a) Grants authorized

From amounts made available under section 6533 of this title for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under this section to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

(1) are enrolled in an advanced placement course; and

(2) plan to take an advanced placement test.

(b) Award basis

In determining the amount of the grant awarded to a State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 6333(c) of this title in the State in relation to the number of such children so counted in all the States.

(c) Information dissemination

A State educational agency awarded a grant under this section shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(d) Applications

Each State 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 require. At a minimum, each State educational agency application shall—

(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds awarded under this section;

(2) provide an assurance that any grant funds awarded under this section shall be used only to pay for advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State educational agency will ensure that a student is eligible for payments authorized under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a–11 et seq.].

(e) Regulations

The Secretary shall prescribe such regulations as are necessary to carry out this section.

(f) Report

(1) In general

Each State educational agency awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

(A) the number of students in the State who are taking an advanced placement course in that subject;

(B) the number of advanced placement tests taken by students in the State who have taken an advanced placement course in that subject;

(C) the number of students in the State scoring at different levels on advanced placement tests in that subject; and

(D) demographic information regarding individuals in the State taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

(2) Report to Congress

The Secretary shall annually compile the information received from each State educational agency under paragraph (1) and report to the appropriate committees of Congress regarding the information.

(g) BIA as SEA

For purposes of this section the Bureau of Indian Affairs shall be treated as a State educational agency.

(Pub. L. 89–10, title I, § 1704, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1606.)

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. Chapter 1 of subpart 2 of part A of title IV of the Act is classified generally to division 1 (§ 1070a–11 et seq.) of subpart 2 of part A of subchapter IV 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.

§ 6535. Advanced placement incentive program grants

(a) Grants authorized

(1) In general

From amounts made available under section 6533 of this title for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable those entities to carry out the authorized activities described in subsection (d) of this section.

(2) Duration and payments

(A) Duration

The Secretary shall award a grant under this section for a period of not more than 3 years.

(B) Payments

The Secretary shall make grant payments under this section on an annual basis.

(3) Definition of eligible entity

In this section, the term ''eligible entity'' means a State educational agency, local educational agency, or national nonprofit educational entity with expertise in advanced placement services.

(b) Application

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 require.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to an eligible entity that submits an application under subsection (b) of this section that—

(1) demonstrates a pervasive need for access to advanced placement incentive programs;

(2) provides for the involvement of business and community organizations in the activities to be assisted;

(3) assures the availability of matching funds from State, local, or other sources to pay for the cost of activities to be assisted;

(4) demonstrates a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science;

(5) demonstrates an intent to carry out activities that target—

(A) local educational agencies serving schools with a high concentration of low-income students; or

(B) schools with a high concentration of low-income students; and

(6) in the case of a local educational agency, assures that the local educational agency serves schools with a high concentration of low-income students; or

(7) demonstrates an intent to carry out activities to increase the availability of, and participation in, on-line advanced placement courses.

(d) Authorized activities

(1) In general

Subject to paragraph (2), an eligible entity shall use grant funds made available under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

(A) teacher training;

(B) pre-advanced placement course development;

(C) coordination and articulation between grade levels to prepare students for academic achievement in advanced placement courses;

(D) books and supplies; or

(E) activities to increase the availability of, and participation in, on-line advanced placement courses; or

(F) any other activity directly related to expanding access to and participation in advanced placement incentive programs, particularly for low-income individuals.

(2) State educational agency

In the case of an eligible entity that is a State educational agency, the entity may use grant funds made available under this section to award subgrants to local educational agencies to enable the local educational agencies to carry out the activities under paragraph (1).

(e) Contracts

An eligible entity awarded a grant to provide online advanced placement courses under this part may enter into a contract with a nonprofit or for profit organization to provide the online advanced placement courses, including contracting for necessary support services.

(f) Data collection and reporting

(1) Data collection

Each eligible entity awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

(A) the number of students served by the eligible entity who are taking an advanced placement course in that subject;

(B) the number of advanced placement tests taken by students served by the eligible entity in that subject;

(C) the number of students served by the eligible entity scoring at different levels on advanced placement tests in that subject; and

(D) demographic information regarding individuals served by such agency who taking[1] advanced placement courses and tests in that subject disaggregated by race, eth-

[1] So in original.

nicity, sex, English proficiency status, and socioeconomic status.

(2) Report

The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to the appropriate committees of Congress regarding the information.

(Pub. L. 89–10, title I, § 1705, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1608.)

§ 6536. Supplement, not supplant

Grant funds provided under this part shall supplement, and not supplant, other non-Federal funds that are available to assist low-income individuals to pay for the cost of advanced placement test fees or to expand access to advanced placement and pre-advanced placement courses.

(Pub. L. 89–10, title I, § 1706, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1609.)

§ 6537. Definitions

In this part:

(1) Advanced placement test

The term ''advanced placement test'' means an advanced placement test administered by the College Board or approved by the Secretary.

(2) High concentration of low-income students

The term ''high concentration of low-income students'', used with respect to a school, means a school that serves a student population 40 percent or more of whom are low-income individuals.

(3) Low-income individual

The term ''low-income individual'' means an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 19, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 6333 of this title, data on children eligible for free or reduced-price lunches under the National School Lunch Act [42 U.S.C. 1751 et seq.], data on children in families receiving assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or data on children eligible to receive medical assistance under the medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], or through an alternate method that combines or extrapolates from those data.

(Pub. L. 89–10, title I, § 1707, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1609; amended Pub. L. 108–11, title II, § 2503, Apr. 16, 2003, 117 Stat. 599.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in par. (3), probably means the Richard B. Russell National School Lunch Act, 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 par. (3), 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. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Par. (3). Pub. L. 108–11 substituted ''19'' for ''17''.

PART H—SCHOOL DROPOUT PREVENTION

§ 6551. Short title

This part may be cited as the ''Dropout Prevention Act''.

(Pub. L. 89–10, title I, § 1801, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

§ 6552. Purpose

The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants that—

(1) challenge all children to attain their highest academic potential; and

(2) ensure that all students have substantial and ongoing opportunities to attain their highest academic potential through schoolwide programs proven effective in school dropout prevention and reentry.

(Pub. L. 89–10, title I, § 1802, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

§ 6553. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) 10 percent shall be available to carry out subpart 1 of this part for each fiscal year; and

(2) 90 percent shall be available to carry out subpart 2 of this part for each fiscal year.

(Pub. L. 89–10, title I, § 1803, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

SUBPART 1—COORDINATED NATIONAL STRATEGY

§ 6555. National activities

(a) In general

The Secretary is authorized—

(1) to collect systematic data on the effectiveness of the programs assisted under this part in reducing school dropout rates and increasing school reentry and secondary school graduation rates;

(2) to establish a national clearinghouse of information on effective school dropout prevention and reentry programs that shall disseminate to State educational agencies, local educational agencies, and schools—

(A) the results of research on school dropout prevention and reentry; and

(B) information on effective programs, best practices, and Federal resources to—

(i) reduce annual school dropout rates;

(ii) increase school reentry; and

(iii) increase secondary school graduation rates;

(3) to provide technical assistance to State educational agencies, local educational agencies, and schools in designing and implementing programs and securing resources to implement effective school dropout prevention and reentry programs;

(4) to establish and consult with an interagency working group that shall—

(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention and reentry;

(B) describe the ways in which State educational agencies and local educational agencies can implement effective school dropout prevention and reentry programs using funds from a variety of Federal programs, including the programs under this part; and

(C) examine Federal programs that may have a positive impact on secondary school graduation or school reentry;

(5) to carry out a national recognition program in accordance with subsection (b) of this section that recognizes schools that have made extraordinary progress in lowering school dropout rates; and

(6) to use funds made available for this subpart to carry out the evaluation required under section 6561i(c) of this title.

(b) Recognition program

(1) Establishment

The Secretary shall—

(A) establish a national recognition program; and

(B) develop uniform national guidelines for the recognition program that shall be used to recognize eligible schools from nominations submitted by State educational agencies.

(2) Recognition

The Secretary shall recognize, under the recognition program established under paragraph (1), eligible schools.

(3) Support

The Secretary may make monetary awards to an eligible school recognized under this subsection in amounts determined appropriate by the Secretary that shall be used for dissemination activities within the eligible school district or nationally.

(4) Definition of eligible school

In this subsection, the term ''eligible school'' means a public middle school or secondary school, including a charter school, that has implemented comprehensive reforms that have been effective in lowering school dropout rates for all students—

(A) in that secondary school or charter school; or

(B) in the case of a middle school, in the secondary school that the middle school feeds students into.

(c) Capacity building

(1) In general

The Secretary, through a contract with one or more non-Federal entities, may conduct a capacity building and design initiative in order to increase the types of proven strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

(2) Number and duration

(A) Number

The Secretary may award not more than five contracts under this subsection.

(B) Duration

The Secretary may award a contract under this subsection for a period of not more than 5 years.

(d) Support for existing reform networks

(1) In general

The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this part.

(2) Definition of eligible entity

In this subsection, the term ''eligible entity'' means an entity that, prior to January 8, 2002—

(A) provided training, technical assistance, and materials related to school dropout prevention or reentry to 100 or more elementary schools or secondary schools; and

(B) developed and published a specific educational program or design related to school dropout prevention or reentry for use by the schools.

(Pub. L. 89–10, title I, § 1811, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

SUBPART 2—SCHOOL DROPOUT PREVENTION INITIATIVE

§ 6561. Definitions

In this subpart:

(1) Low-income student

The term ''low-income student'' means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 6313(c) of this title.

(2) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau.

(Pub. L. 89–10, title I, § 1821, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1612.)

§ 6561a. Program authorized

(a) Grants to State educational agencies and local educational agencies

(1) Amount less than $75,000,000

(A) In general

If the amount appropriated under section 6553 of this title for a fiscal year equals or is less than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to—

(i) State educational agencies to support activities—

(I) in schools that—

(aa) serve students in grades 6 through 12; and

(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

(II) in the middle schools that feed students into the schools described in subclause (I); or

(ii) local educational agencies that operate—

(I) schools that—

(aa) serve students in grades 6 through 12; and

(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

(II) middle schools that feed students into the schools described in subclause (I).

(B) Use of grant funds

Grant funds awarded under this paragraph shall be used to fund effective, sustainable, and coordinated school dropout prevention and reentry programs that may include the activities described in subsection (b)(2) of this section, in—

(i) schools serving students in grades 6 through 12 that have annual school dropout rates that are above the State average annual school dropout rate; or

(ii) the middle schools that feed students into the schools described in clause (i).

(2) Amount less than $250,000,000 but more than $75,000,000

If the amount appropriated under section 6553 of this title for a fiscal year is less than $250,000,000 but more than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award subgrants under subsection (b) of this section.

(3) Amount equal to or exceeds $250,000,000

If the amount appropriated under section 6553 of this title for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such amount to award a grant to each State educational agency in an amount that bears the same relation to such appropriated amount as the amount the State educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount received by all State educational agencies under such part for the preceding fiscal year, to enable the State educational agency to award subgrants under subsection (b) of this section.

(b) Subgrants to local educational agencies

(1) In general

From amounts made available to a State educational agency under paragraph (2) or (3) of subsection (a) of this section, the State educational agency shall award subgrants, on a competitive basis, to local educational agencies that operate public schools that serve students in grades 6 through 12 and that have annual school dropout rates that are above the State average annual school dropout rate, to enable those schools, or the middle schools that feed students into those schools, to implement effective, sustainable, and coordinated school dropout prevention and reentry programs that involve activities such as—

(A) professional development;

(B) obtaining curricular materials;

(C) release time for professional staff to obtain professional development;

(D) planning and research;

(E) remedial education;

(F) reduction in pupil-to-teacher ratios;

(G) efforts to meet State student academic achievement standards;

(H) counseling and mentoring for at-risk students;

(I) implementing comprehensive school reform models, such as creating smaller learning communities; and

(J) school reentry activities.

(2) Amount

Subject to paragraph (3), a subgrant under this subpart shall be awarded—

(A) in the first year that a local educational agency receives a subgrant payment under this subpart, in an amount that is based on factors such as—

(i) the size of schools operated by the local educational agency;

(ii) costs of the model or set of prevention and reentry strategies being implemented; and

(iii) local cost factors such as poverty rates;

(B) in the second year, in an amount that is not less than 75 percent of the amount the local educational agency received under this subpart in the first such year;

(C) in the third year, in an amount that is not less than 50 percent of the amount the local educational agency received under this subpart in the first such year; and

(D) in each succeeding year, in an amount that is not less than 30 percent of the amount the local educational agency received under this subpart in the first year.

(3) Duration

A subgrant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 6561i(a) of this title, that significant

progress has been made in lowering the annual school dropout rate for secondary schools participating in the program assisted under this subpart.

(Pub. L. 89–10, title I, § 1822, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1612.)

§ 6561b. Applications

(a) In general

To receive—

(1) a grant under this subpart, a State educational agency or local educational agency shall submit an application and plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require; and

(2) a subgrant under this subpart, a local educational agency shall submit an application and 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.

(b) Contents

(1) State educational agency and local educational agency

Each application and plan submitted under subsection (a) of this section shall—

(A) include an outline—

(i) of the State educational agency's or local educational agency's strategy for reducing the State educational agency or local educational agency's annual school dropout rate;

(ii) for targeting secondary schools, and the middle schools that feed students into those secondary schools, that have the highest annual school dropout rates; and

(iii) for assessing the effectiveness of the efforts described in the plan;

(B) contain an identification of the schools in the State or operated by the local educational agency that have annual school dropout rates that are greater than the average annual school dropout rate for the State;

(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

(D) describe a budget and timeline for implementing the strategies;

(E) contain evidence of coordination with existing resources;

(F) provide an assurance that funds provided under this subpart will supplement, and not supplant, other State and local funds available for school dropout prevention and reentry programs; and

(G) describe how the activities to be assisted conform with research knowledge about school dropout prevention and reentry.

(2) Local educational agency

Each application and plan submitted under subsection (a) of this section by a local educational agency shall contain, in addition to the requirements of paragraph (1)—

(A) an assurance that the local educational agency is committed to providing ongoing operational support for such schools to address the problem of school dropouts for a period of 5 years; and

(B) an assurance that the local educational agency will support the plan, including—

(i) provision of release time for teacher training;

(ii) efforts to coordinate activities for secondary schools and the middle schools that feed students into those secondary schools; and

(iii) encouraging other schools served by the local educational agency to participate in the plan.

(Pub. L. 89–10, title I, § 1823, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1614.)

§ 6561c. State reservation

A State educational agency that receives a grant under paragraph (2) or (3) of section 6561a(a) of this title may reserve not more than 5 percent of the grant funds for administrative costs and State activities related to school dropout prevention and reentry activities, of which not more than 2 percent of the grant funds may be used for administrative costs.

(Pub. L. 89–10, title I, § 1824, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1615.)

§ 6561d. Strategies and capacity building

Each local educational agency receiving a grant or subgrant under this subpart and each State educational agency receiving a grant under this subpart shall implement scientifically based, sustainable, and widely replicated strategies for school dropout prevention and reentry. The strategies may include—

(1) specific strategies for targeted purposes, such as—

(A) effective early intervention programs designed to identify at-risk students;

(B) effective programs serving at-risk students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school; and

(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, and developing clear linkages to career skills and employment.

(Pub. L. 89–10, title I, § 1825, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1615.)

§ 6561e. Selection of local educational agencies for subgrants

(a) State educational agency review and award

The State educational agency shall review applications submitted under section 6561b(a)(2) of this title and award subgrants to local educational agencies with the assistance and advice of a panel of experts on school dropout prevention and reentry.

(b) Eligibility

A local educational agency is eligible to receive a subgrant under this subpart if the local educational agency operates a public school (including a public alternative school)—

(1) that is eligible to receive assistance under part A of this subchapter; and

(2)(A) that serves students 50 percent or more of whom are low-income students; or

(B) in which a majority of the students come from feeder schools that serve students 50 percent or more of whom are low-income students.

(Pub. L. 89–10, title I, § 1826, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561f. Community based organizations

A local educational agency that receives a grant or subgrant under this subpart and a State educational agency that receives a grant under this subpart may use the funds to secure necessary services from a community-based organization or other government agency if the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts.

(Pub. L. 89–10, title I, § 1827, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561g. Technical assistance

Notwithstanding any other provision of law, each local educational agency that receives funds under this subpart shall use the funds to provide technical assistance to secondary schools served by the agency that have not made progress toward lowering annual school dropout rates after receiving assistance under this subpart for 2 fiscal years.

(Pub. L. 89–10, title I, § 1828, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561h. School dropout rate calculation

For purposes of calculating an annual school dropout rate under this subpart, a school shall use the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data.

(Pub. L. 89–10, title I, § 1829, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561i. Reporting and accountability

(a) Local educational agency reports

(1) In general

To receive funds under this subpart for a fiscal year after the first fiscal year that a local educational agency receives funds under this subpart, the local educational agency shall provide, on an annual basis, a report regarding the status of the implementation of activities funded under this subpart, and the dropout data for students at schools assisted under this subpart, disaggregated by race and ethnicity, to the—

(A) Secretary, if the local educational agency receives a grant under section 6561a(a)(1) of this title; or

(B) State educational agency, if the local educational agency receives a subgrant under paragraph (2) or (3) of section 6561a(a) of this title.

(2) Dropout data

The dropout data under paragraph (1) shall include annual school dropout rates for each fiscal year, starting with the 2 fiscal years before the local educational agency received funds under this subpart.

(b) State report on program activities

Each State educational agency receiving funds under this subpart shall provide to the Secretary, at such time and in such format as the Secretary may require, information on the status of the implementation of activities funded under this subpart and outcome data for students in schools assisted under this subpart.

(c) Accountability

The Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared, if feasible, to a control group using control procedures. The Secretary may use funds appropriated for subpart 1 of this part to carry out this evaluation.

(Pub. L. 89–10, title I, § 1830, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

PART I—GENERAL PROVISIONS

§ 6571. Federal regulations

(a) In general

The Secretary may issue such regulations as are necessary to reasonably ensure that there is compliance with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Before 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, paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

(3) Proposed regulations

After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on, at a minimum, standards and assessments;

(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before 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 1 year after January 8, 2002; 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 within a very limited time to assist State educational agencies 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 before 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, § 1901, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1617.)

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, as amended, which enacted subchapter III (§ 561 et seq.) of chapter 5 of Title 5, Government Organization and Employees, and provisions set out as notes under section 561 of Title 5. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 561 of Title 5 and Tables.

§ 6572. Agreements and records

(a) Agreements

All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements.

(b) Records

The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

(Pub. L. 89–10, title I, § 1902, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1618.)

§ 6573. 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 created under subsection (b) of this section for review and comment;

(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

(D) 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 student academic achievement standards.

(b) Committee of practitioners

(1) In general

Each State educational agency that receives funds under this subchapter 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, including the administrators of programs described in other parts of this subchapter;

(C) teachers, including vocational educators;

(D) parents;

(E) members of local school boards;

(F) representatives of private school children; and

(G) pupil services personnel.

(3) Duties

The duties of such committee shall include a review, before 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 before issuance in final form.

(Pub. L. 89–10, title I, § 1903, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1618.)

§ 6574. Local educational agency spending audits

(a) Audits

The Comptroller General of the United States shall conduct audits of not less than 6 local educational agencies that receive funds under part A of this subchapter in each fiscal year to determine more clearly and specifically how local educational agencies are expending such funds. Such audits—

(1) shall be conducted in 6 local educational agencies that represent the size, ethnic, economic, and geographic diversity of local educational agencies; and

(2) shall examine the extent to which funds have been expended for academic instruction in the core curriculum and activities unrelated to academic instruction in the core curriculum, such as the payment of janitorial, utility, and other maintenance services, the purchase and lease of vehicles, and the payment for travel and attendance costs at conferences.

(b) Report

Not later than 3 months after the completion of the audits under subsection (a) of this section each year, the Comptroller General of the United States shall submit a report on each audit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

(Pub. L. 89–10, title I, § 1904, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6575. Prohibition against 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, academic achievement standards and assessments, curriculum, or program of instruction.

(Pub. L. 89–10, title I, § 1905, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6576. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title I, § 1906, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6577. State report on dropout data

Not later than 1 year after a State educational agency receives funds under this subchapter, the agency shall report to the Secretary and statewide, all school district data regarding annual school dropout rates in the State disaggregated by race and ethnicity according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

(Pub. L. 89–10, title I, § 1907, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6578. Regulations for sections 6311 and 6316

The Secretary shall issue regulations for sections 6311 and 6316 of this title not later than 6 months after January 8, 2002.

(Pub. L. 89–10, title I, § 1908, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1620.)

SUBCHAPTER II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

CODIFICATION

Title II of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title II is shown, herein, as having been added by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND

§ 6601. Purpose

The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to—

(1) increase student academic achievement through strategies such as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools; and

(2) hold local educational agencies and schools accountable for improvements in student academic achievement.

(Pub. L. 89–10, title II, § 2101, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.)

PRIOR PROVISIONS

A prior section 6601, Pub. L. 89–10, title II, § 2001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2101 of Pub. L. 89–10 was classified to section 6621 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2101 of Pub. L. 89–10 was classified to section 3001 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6602. Definitions

In this part:

(1) Arts and sciences

The term ''arts and sciences'' means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subjects in which teachers teach; and

(B) when referring to a specific academic subject, the disciplines or content areas in which an academic major is offered by an organizational unit described in subparagraph (A).

(2) Charter school

The term ''charter school'' has the meaning given the term in section 7221i of this title.

(3) High-need local educational agency

The term ''high-need local educational agency'' means a local educational agency—

(A)(i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and

(B)(i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or

(ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

(4) Highly qualified paraprofessional

The term ''highly qualified paraprofessional'' means a paraprofessional who has not less than 2 years of—

(A) experience in a classroom; and

(B) postsecondary education or demonstrated competence in a field or academic subject for which there is a significant shortage of qualified teachers.

(5) Out-of-field teacher

The term ''out-of-field teacher'' means a teacher who is teaching an academic subject or a grade level for which the teacher is not highly qualified.

(6) Principal

The term ''principal'' includes an assistant principal.

(Pub. L. 89–10, title II, § 2102, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.)

PRIOR PROVISIONS

A prior section 6602, Pub. L. 89–10, title II, § 2002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3613, set forth purposes of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6601 of this title.

A prior section 2102 of Pub. L. 89–10 was classified to section 6622 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2102 of Pub. L. 89–10 was classified to section 3002 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6603. Authorizations of appropriations

(a) Grants to States, local educational agencies, and eligible partnerships

There are authorized to be appropriated to carry out this part (other than subpart 5) $3,175,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) National programs

There are authorized to be appropriated to carry out subpart 5 of this part such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2103, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1621.)

PRIOR PROVISIONS

A prior section 6603, 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, authorized appropriations and related to allocations of appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2103 of Pub. L. 89–10 was classified to section 6623 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2103 of Pub. L. 89–10 was classified to section 3003 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—GRANTS TO STATES

§ 6611. Allotments to States

(a) In general

The Secretary shall make grants to States with applications approved under section 6612 of this title to pay for the Federal share of the cost of carrying out the activities specified in section 6613 of this title. Each grant shall consist of the allotment determined for a State under subsection (b) of this section.

(b) Determination of allotments

(1) Reservation of funds

(A)[1] In general

From the total amount appropriated under section 6603(a) of this title for a fiscal year, the Secretary shall reserve—

(i) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this part; and

(ii) one-half of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Affairs.

(2) State allotments

(A) Hold harmless

(i) In general

Subject to subparagraph (B), from the funds appropriated under section 6603(a) of this title for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

(I) section 2202(b) of this Act (as in effect on the day before January 8, 2002); and

(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(ii) Ratable reduction

If the funds described in clause (i) are insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

[1] So in original. No subpar. (B) has been enacted.

(B) Allotment of additional funds

(i) In general

Subject to clause (ii), for any fiscal year for which the funds appropriated under section 6603(a) of this title and not reserved under paragraph (1) exceed the total amount required to make allotments under subparagraph (A), the Secretary shall allot to each of the States described in subparagraph (A) the sum of—

(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

(ii) Exception

No State receiving an allotment under clause (i) may receive less than one-half of 1 percent of the total excess amount allotted under such clause for a fiscal year.

(3) Reallotment

If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

(Pub. L. 89–10, title II, § 2111, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1621.)

REFERENCES IN TEXT

Section 2202(b) of this Act (as in effect on the day before January 8, 2002), referred to in subsec. (b)(2)(A)(i)(I), is section 2202(b) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6642(b) of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (b)(2)(A)(i)(II), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Nov. 29, 1999, 113 Stat. 2763, 2763A–41, which is not classified to the Code.

§ 6612. State applications

(a) In general

For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Contents

Each application submitted under this section shall include the following:

(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 of this part will comply with the requirements of such subpart.

(3) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with challenging State academic content and student academic achievement standards, State assessments, and State and local curricula.

(4) A description of how the State educational agency will use funds under this part to improve the quality of the State's teachers and principals.

(5)(A) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs.

(B) A description of the comprehensive strategy that the State educational agency will use, as part of such coordination effort, to ensure that teachers are trained in the use of technology so that technology and applications of technology are effectively used in the classroom to improve teaching and learning in all curricula and academic subjects, as appropriate.

(6) A description of how the State educational agency will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(7)(A) A description of how the State educational agency will ensure compliance with the requirements for professional development activities described in section 7801 of this title and how the activities to be carried out under the grant will be developed collaboratively and based on the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

(B) In the case of a State in which the State educational agency is not the entity responsible for teacher professional standards, certification, and licensing, an assurance that the State activities carried out under this subpart are carried out in conjunction with the entity responsible for such standards, certification, and licensing under State law.

(8) A description of how the State educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart and subpart 2 of this part.

(9) A description of the State educational agency's annual measurable objectives under section 6319(a)(2) of this title.

(10) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 6319 of this title and how

the State educational agency will hold local educational agencies accountable for meeting the annual measurable objectives described in section 6319(a)(2) of this title.

(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, the specific portion of the State law that provides for the exemption.

(12) An assurance that the State educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(c) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(d) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) Response

If the State educational agency responds to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c) of this section.

(g) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title II, § 2112, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1623.)

§ 6613. State use of funds

(a) In general

A State that receives a grant under section 6611 of this title shall—

(1) reserve 95 percent of the funds made available through the grant to make subgrants to local educational agencies as described in subpart 2 of this part;

(2) reserve 2.5 percent (or, for a fiscal year described in subsection (b) of this section, the percentage determined under subsection (b) of this section) of the funds to make subgrants to local partnerships as described in subpart 3 of this part; and

(3) use the remainder of the funds for State activities described in subsection (c) of this section.

(b) Special rule

For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2) of this section, if the States applied a 2.5 percentage rate, exceeds $125,000,000, the Secretary shall determine an alternative percentage that the States shall apply for that fiscal year under subsection (a)(2) of this section so that the total amount reserved by all States under subsection (a)(2) of this section equals $125,000,000.

(c) State activities

The State educational agency for a State that receives a grant under section 6611 of this title shall use the funds described in subsection (a)(3) of this section to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:

(1) Reforming teacher and principal certification (including recertification) or licensing requirements to ensure that—

(A)(i) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach; and

(ii) principals have the instructional leadership skills to help teachers teach and students learn;

(B) teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.

(2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that—

(A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and

(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 7801 of this title.

(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.

(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

(A) if the State educational agency is making progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title; and

(B) in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.].

(6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.

(7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.

(8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.

(9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

(12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.

(13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(14) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).

(16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.

(17) Funding projects and carrying out programs to encourage men to become elementary school teachers.

(18) Establishing and operating a center that—

(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

(d) Administrative costs

A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the grant funds for planning and administration related to carrying out activities under subsection (c) of this section and subpart 3 of this part.

(e) Coordination

A State that receives a grant to carry out this subpart and a grant under section 202[1] of the Higher Education Act of 1965 shall coordinate

[1] See References in Text note below.

the activities carried out under this subpart and the activities carried out under that section.

(f) Supplement, not supplant

Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

(Pub. L. 89–10, title II, § 2113, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1625.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 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.

The No Child Left Behind Act of 2001, referred to in subsec. (c)(15), is Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 6301 of this title and Tables.

Section 202 of the Higher Education Act of 1965, referred to in subsec. (e), which was classified to section 1022 of this title, was repealed by Pub. L. 110–315, title II, § 201(2), Aug. 14, 2008, 122 Stat. 3133. Pub. L. 110–315 enacted a new section 202 of the Act, relating to partnership grants, which is classified to section 1022a of this title.

SUBPART 2—SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 6621. Allocations to local educational agencies

(a)[1] Subgrants to local educational agencies

(1) In general

The Secretary may make a grant to a State under subpart 1 of this part only if the State educational agency agrees to distribute the funds described in this subsection as subgrants to local educational agencies under this subpart.

(2) Hold harmless

(A) In general

From the funds reserved by a State under section 6613(a)(1) of this title, the State educational agency shall allocate to each local educational agency in the State an amount equal to the total amount that such agency received for fiscal year 2001 under—

(i) section 2203(1)(B) of this Act (as in effect on the day before January 8, 2002); and

(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(B) Nonparticipating agencies

In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allocated to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if the agency had elected to participate in all of the programs for which the agency was eligible under each of the provisions referred to in those clauses.

(C) Ratable reduction

If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies in the State are eligible to receive under subparagraph (A) for any fiscal year, the State educational agency shall ratably reduce such amounts for the fiscal year.

(3) Allocation of additional funds

For any fiscal year for which the funds reserved by a State under section 6613(a)(1) of this title exceed the total amount required to make allocations under paragraph (2), the State educational agency shall allocate to each of the eligible local educational agencies in the State the sum of—

(A) an amount that bears the same relationship to 20 percent of the excess amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

(B) an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

(Pub. L. 89–10, title II, § 2121, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1627.)

REFERENCES IN TEXT

Section 2203(1)(B) of this Act (as in effect on the day before January 8, 2002), referred to in subsec. (a)(2)(A)(i), is section 2203(1)(B) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6643(1)(B) of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (a)(2)(A)(ii), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Nov. 29, 1999, 113 Stat. 2763, 2763A–41, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 6621, 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, authorized professional development program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6622. Local applications and needs assessment

(a) In general

To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency

[1] So in original. No subsec. (b) has been enacted.

at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) Contents

Each application submitted under this section shall be based on the needs assessment required in subsection (c) of this section and shall include the following:

(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with—

(i) challenging State academic content standards and student academic achievement standards, and State assessments; and

(ii) the curricula and programs tied to the standards described in clause (i).

(B) A description of how the activities will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

(3) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

(A) have the lowest proportion of highly qualified teachers;

(B) have the largest average class size; or

(C) are identified for school improvement under section 6316(b) of this title.

(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs.

(5) A description of the professional development activities that will be made available to teachers and principals under this subpart and how the local educational agency will ensure that the professional development (which may include teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

(6) A description of how the local educational agency will integrate funds under this subpart with funds received under part D of this subchapter that are used for professional development to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy.

(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

(8) A description of the results of the needs assessment described in subsection (c) of this section.

(9) A description of how the local educational agency will provide training to enable teachers to—

(A) teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

(B) improve student behavior in the classroom and identify early and appropriate interventions to help students described in subparagraph (A) learn;

(C) involve parents in their child's education; and

(D) understand and use data and assessments to improve classroom practice and student learning.

(10) A description of how the local educational agency will use funds under this subpart to meet the requirements of section 6319 of this title.

(11) An assurance that the local educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(c) Needs assessment

(1) In general

To be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff.

(2) Requirements

Such needs assessment shall be conducted with the involvement of teachers, including teachers participating in programs under part A of subchapter I of this chapter, and shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers, to provide students with the opportunity to meet challenging State and local student academic achievement standards.

(Pub. L. 89–10, title II, § 2122, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1628.)

PRIOR PROVISIONS

A prior section 6622, Pub. L. 89–10, title II, § 2102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3615, related to authorized professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6623. Local use of funds

(a) In general

A local educational agency that receives a subgrant under section 6621 of this title shall use the funds made available through the subgrant to carry out one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

(1) Developing and implementing mechanisms to assist schools in effectively recruit-

ing and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

(A) if the local educational agency is making progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title; and

(B) in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

(2) Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including—

(A) providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach—

(i) in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and

(ii) in schools in which there exists a shortage of highly qualified teachers;

(B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and

(C) establishing programs that—

(i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);

(ii) train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;

(iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the most qualified applicants; and

(iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

(3) Providing professional development activities—

(A) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning—

(i) one or more of the core academic subjects that the teachers teach; and

(ii) effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement; and

(B) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that—

(i) involve collaborative groups of teachers and administrators;

(ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

(iii) provide training in methods of—

(I) improving student behavior in the classroom; and

(II) identifying early and appropriate interventions to help students described in clause (ii) learn;

(iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and

(v) provide training on how to understand and use data and assessments to improve classroom practice and student learning.

(4) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide—

(A) teacher mentoring from exemplary teachers, principals, or superintendents;

(B) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively;

(C) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or

(D) incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of the teacher force, such as—

(A) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 7801 of this title, and are coordinated with activities carried out under part D of this subchapter;

(B) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

(C) tenure reform;

(D) merit pay programs; and

(E) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.

(6) Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(7) Hiring highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.

(8) Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(10)[1] Carrying out programs and activities related to exemplary teachers.

(b) Supplement, not supplant

Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

(Pub. L. 89–10, title II, § 2123, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1630.)

PRIOR PROVISIONS

A prior section 6623, Pub. L. 89–10, title II, § 2103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3617, related to National Teacher Training Project, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 3—SUBGRANTS TO ELIGIBLE PARTNERSHIPS

§ 6631. Definitions

In this subpart:

(1) Eligible partnership

The term ''eligible partnership'' means an entity that—

(A) shall include—

(i) a private or State institution of higher education and the division of the institution that prepares teachers and principals;

(ii) a school of arts and sciences; and

(iii) a high-need local educational agency; and

(B) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, a principal organization, or a business.

(2) Low-performing school

The term ''low-performing school'' means an elementary school or secondary school that is identified under section 6316 of this title.

(Pub. L. 89–10, title II, § 2131, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6632. Subgrants

(a) In general

The State agency for higher education for a State that receives a grant under section 6611 of this title, working in conjunction with the State educational agency (if such agencies are separate), shall use the funds reserved under section 6613(a)(2) of this title to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 6634 of this title.

(b) Distribution

The State agency for higher education shall ensure that—

(1) such subgrants are equitably distributed by geographic area within a State; or

(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

(c) Special rule

No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

(Pub. L. 89–10, title II, § 2132, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6633. Applications

To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

(Pub. L. 89–10, title II, § 2133, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6634. Use of funds

(a) In general

An eligible partnership that receives a subgrant under section 6632 of this title shall use the subgrant funds for—

(1) professional development activities in core academic subjects to ensure that—

(A) teachers and highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach, including the use of computer related technology to enhance student learning; and

(B) principals have the instructional leadership skills that will help such principals

[1] So in original. No par. (9) has been enacted.

work most effectively with teachers to help students master core academic subjects; and

(2) developing and providing assistance to local educational agencies and individuals who are teachers, highly qualified paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

(A) ensure that the individuals are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement;

(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

(C) may include activities of partnerships between one or more local educational agencies, one or more schools served by such local educational agencies, and one or more institutions of higher education for the purpose of improving teaching and learning at low-performing schools.

(b) Coordination

An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 1023[1] of this title shall coordinate the activities carried out under this subpart and the activities carried out under that section 1023 of this title.

(Pub. L. 89–10, title II, § 2134, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

REFERENCES IN TEXT

Section 1023 of this title, referred to in subsec. (b), was in the original a reference to section 203 of the Higher Education Act of 1965, Pub. L. 89–329. Section 203 of Pub. L. 89–329 was repealed by Pub. L. 110–315, title II, § 201(2), Aug. 14, 2008, 122 Stat. 3133. Pub. L. 110–315 enacted a new section 203 of Pub. L. 89–329, which relates to administrative provisions, and is classified to section 1022b of this title.

SUBPART 4—ACCOUNTABILITY

§ 6641. Technical assistance and accountability

(a) Improvement plan

After the second year of the plan described in section 6319(a)(2) of this title, if a State educational agency determines, based on the reports described in section 6319(b)(1) of this title, that a local educational agency in the State has failed to make progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title, for 2 consecutive years, such local educational agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically addresses issues that prevented the agency from meeting such annual measurable objectives.

(b) Technical assistance

During the development of the improvement plan described in subsection (a) of this section and throughout implementation of the plan, the State educational agency shall—

(1) provide technical assistance to the local educational agency; and

(2) provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the annual measurable objectives described in section 6319(a)(2) of this title.

(c) Accountability

After the third year of the plan described in section 6319(a)(2) of this title, if the State educational agency determines, based on the reports described in section 6319(b)(1) of this title, that the local educational agency has failed to make progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title, and has failed to make adequate yearly progress as described under section 6311(b)(2)(B) of this title, for 3 consecutive years, the State educational agency shall enter into an agreement with such local educational agency on the use of that agency's funds under this part. As part of this agreement, the State educational agency—

(1) shall develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the annual measurable objectives described in section 6319(a)(2) of this title and require such agency to utilize such strategies and activities; and

(2)(A) except as provided in subparagraphs (B) and (C), shall prohibit the use of funds received under part A of subchapter I of this chapter to fund any paraprofessional hired after the date such determination is made;

(B) shall allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate that the hiring is to fill a vacancy created by the departure of another paraprofessional funded under subchapter I of this chapter and such new paraprofessional satisfies the requirements of section 6319(c) of this title; and

(C) may allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate—

(i) that a significant influx of population has substantially increased student enrollment; or

(ii) that there is an increased need for translators or assistance with parental involvement activities.

(d) Special rule

During the development of the strategies and activities described in subsection (c)(1) of this section, the State educational agency shall, in conjunction with the local educational agency, provide from funds allocated to such local educational agency under subpart 2 of this part directly to one or more schools served by such local educational agency, to enable teachers at the schools to choose, with continuing consultation with the principal involved, professional development activities that—

[1] See References in Text note below.

(1) meet the requirements for professional development activities described in section 7801 of this title; and

(2) are coordinated with other reform efforts at the schools.

(Pub. L. 89–10, title II, § 2141, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1634.)

PRIOR PROVISIONS

A prior section 6641, Pub. L. 89–10, title II, § 2201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, authorized program for State and local professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6642 to 6650 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6642, Pub. L. 89–10, title II, § 2202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, related to allocation of funds for State and local professional development activities.

Section 6643, Pub. L. 89–10, title II, § 2203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, related to within-State allocations.

Section 6644, Pub. L. 89–10, title II, § 2204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622, related to consortium requirement.

Section 6645, 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, related to State applications.

Section 6646, 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 VIII, § 101(b)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406, related to priority for professional development in mathematics and science.

Section 6647, Pub. L. 89–10, title II, § 2207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625, related to State-level activities.

Section 6648, 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, related to local plan and application for improving teaching and learning.

Section 6649, 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, related to local cost-sharing.

Section 6650, Pub. L. 89–10, title II, § 2210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3629, related to local allocation of funds and allowable activities.

SUBPART 5—NATIONAL ACTIVITIES

§ 6651. National activities of demonstrated effectiveness

(a) National teacher recruitment campaign

The Secretary is authorized to establish and carry out a national teacher recruitment campaign, which may include activities carried out through the National Teacher Recruitment Clearinghouse, to assist high-need local educational agencies in recruiting teachers (particularly those activities that are effective in retaining new teachers) and training teachers and to conduct a national public service campaign concerning the resources for, and the routes to, entering the field of teaching. In carrying out the campaign, the Secretary may promote and link the activities of the campaign to the information and referral activities of the National Teacher Recruitment Clearinghouse. The Secretary shall coordinate activities under this subsection with State and regional recruitment activities.

(b) School leadership

(1) In general

The Secretary is authorized to establish and carry out a national principal recruitment program to assist high-need local educational agencies in recruiting and training principals (including assistant principals) through such activities as—

(A) providing financial incentives to aspiring new principals;

(B) providing stipends to principals who mentor new principals;

(C) carrying out professional development programs in instructional leadership and management; and

(D) providing incentives that are appropriate for teachers or individuals from other fields who want to become principals and that are effective in retaining new principals.

(2) Grants

If the Secretary uses sums made available under section 6603(b) of this title to carry out paragraph (1), the Secretary shall carry out such paragraph by making grants, on a competitive basis, to—

(A) high-need local educational agencies;

(B) consortia of high-need local educational agencies; and

(C) partnerships of high-need local educational agencies, nonprofit organizations, and institutions of higher education.

(c) Advanced certification or advanced credentialing

(1) In general

The Secretary is authorized to support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

(2) Implementation

In carrying out paragraph (1), the Secretary shall make grants to eligible entities to—

(A) develop teacher standards that include measures tied to increased student academic achievement; and

(B) promote outreach, teacher recruitment, teacher subsidy, or teacher support programs, related to teacher certification or credentialing by the National Board for Professional Teaching Standards, the National Council on Teacher Quality, or other nationally recognized certification or credentialing organizations.

(3) Eligible entities

In this subsection, the term ''eligible entity'' includes—

(A) a State educational agency;

(B) a local educational agency;

(C) the National Board for Professional Teaching Standards, in partnership with a high-need local educational agency or a State educational agency;

(D) the National Council on Teacher Quality, in partnership with a high-need local educational agency or a State educational agency; or

(E) another recognized entity, including another recognized certification or credentialing organization, in partnership with a high-need local educational agency or a State educational agency.

(d) Special education teacher training

The Secretary is authorized to award a grant to the University of Northern Colorado to enable such university to provide, to other institutions of higher education, assistance in training special education teachers.

(e) Early childhood educator professional development

(1) Purpose

The purpose of this subsection is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent young children from encountering difficulties once the children enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

(2) Program authorized

(A) Grants to partnerships

The Secretary is authorized to carry out the purpose of this subsection by awarding grants, on a competitive basis, to partnerships consisting of—

(i)(I) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

(II) another public or private entity that provides such professional development;

(ii) one or more public agencies ([1]including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), Head Start agencies, or private organizations; and

(iii) to the extent feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse.

(B) Duration and number of grants

(i) Duration

The Secretary shall award grants under this subsection for periods of not more than 4 years.

(ii) Number

No partnership may receive more than one grant under this subsection.

[1] So in original. There is no closing parenthesis.

(3) Applications

(A) Applications required

Any partnership that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Contents

Each such application shall include—

(i) a description of the high-need community to be served by the project proposed to be carried out through the grant, including such demographic and socioeconomic information as the Secretary may request;

(ii) information on the quality of the early childhood educator professional development program currently conducted (as of the date of the submission of the application) by the institution of higher education or another provider in the partnership;

(iii) the results of a needs assessment that the entities in the partnership have undertaken to determine the most critical professional development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

(iv) a description of how the proposed project will be carried out, including a description of—

(I) how individuals will be selected to participate;

(II) the types of professional development activities, based on scientifically based research, that will be carried out;

(III) how research on effective professional development and on adult learning will be used to design and deliver project activities;

(IV) how the project will be coordinated with and build on, and will not supplant or duplicate, early childhood education professional development activities in the high-need community;

(V) how the project will train early childhood educators to provide developmentally appropriate school-readiness services that are based on the best available research on early childhood pedagogy and child development and learning domains;

(VI) how the project will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English proficiency, children with disabilities, or children with other special needs; and

(VII) how the project will train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

(v) a description of—

(I) the specific objectives that the partnership will seek to attain through

the project, and the methods that the partnership will use to measure progress toward attainment of those objectives; and

(II) how the objectives and the measurement methods align with the achievement indicators established by the Secretary under paragraph (6)(A);

(vi) a description of the partnership's plan for continuing the activities carried out under the project after Federal funding ceases;

(vii) an assurance that, where applicable, the project will provide appropriate professional development to volunteers working directly with young children, as well as to paid staff; and

(viii) an assurance that, in developing the application and in carrying out the project, the partnership has consulted with, and will consult with, relevant agencies, early childhood educator organizations, and early childhood providers that are not members of the partnership.

(4) Selection of grant recipients

(A) Criteria

The Secretary shall select partnerships to receive grants under this subsection on the basis of the degree to which the communities proposed to be served require assistance and the quality of the applications submitted under paragraph (3).

(B) Geographic distribution

In selecting partnerships to receive grants under this subsection, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

(5) Uses of funds

(A) In general

Each partnership receiving a grant under this subsection shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.

(B) Allowable activities

Such activities may include—

(i) professional development for early childhood educators, particularly to familiarize those educators with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

(ii) professional development for early childhood educators in working with parents, so that the educators and parents can work together to provide and support developmentally appropriate school-readiness services that are based on scientifically based research on early childhood pedagogy and child development and learning domains;

(iii) professional development for early childhood educators to work with children who have limited English proficiency, children with disabilities, and children with other special needs;

(iv) professional development to train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

(v) activities that assist and support early childhood educators during their first 3 years in the field;

(vi) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

(vii) professional development activities related to the selection and use of screening and diagnostic assessments to improve teaching and learning; and

(viii) data collection, evaluation, and reporting needed to meet the requirements of paragraph (6) relating to accountability.

(6) Accountability

(A) Achievement indicators

On the date on which the Secretary first issues a notice soliciting applications for grants under this subsection, the Secretary shall announce achievement indicators for this subsection, which shall be designed—

(i) to measure the quality and accessibility of the professional development provided;

(ii) to measure the impact of that professional development on the early childhood education provided by the individuals who receive the professional development; and

(iii) to provide such other measures of program impact as the Secretary determines to be appropriate.

(B) Annual reports; termination

(i) Annual reports

Each partnership receiving a grant under this subsection shall report annually to the Secretary on the partnership's progress toward attaining the achievement indicators.

(ii) Termination

The Secretary may terminate a grant under this subsection at any time if the Secretary determines that the partnership receiving the grant is not making satisfactory progress toward attaining the achievement indicators.

(7) Cost-sharing

(A) In general

Each partnership carrying out a project through a grant awarded under this subsection shall provide, from sources other than the program carried out under this subsection, which may include Federal sources—

(i) at least 50 percent of the total cost of the project for the grant period; and

(ii) at least 20 percent of the project cost for each year.

(B) Acceptable contributions

A partnership may meet the requirements of subparagraph (A) by providing contribu-

tions in cash or in kind, fairly evaluated, including plant, equipment, and services.

(C) Waivers

The Secretary may waive or modify the requirements of subparagraph (A) for partnerships in cases of demonstrated financial hardship.

(8) Federal coordination

The Secretary and the Secretary of Health and Human Services shall coordinate activities carried out through programs under this subsection with activities carried out through other early childhood programs administered by the Secretary or the Secretary of Health and Human Services.

(9) Definitions

In this subsection:

(A) Early childhood educator

The term ''early childhood educator'' means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(B) High-need community

(i) In general

The term ''high-need community'' means—

(I) a political subdivision of a State, or a portion of a political subdivision of a State, in which at least 50 percent of the children are from low-income families; or

(II) a political subdivision of a State that is among the 10 percent of political subdivisions of the State having the greatest numbers of such children.

(ii) Determination

In determining which communities are described in clause (i), the Secretary shall use such data as the Secretary determines are most accurate and appropriate.

(C) Low-income family

The term ''low-income family'' means a family with an income below the poverty line for the most recent fiscal year for which satisfactory data are available.

(f) Teacher mobility

(1) Establishment

The Secretary is authorized to establish a panel to be known as the National Panel on Teacher Mobility (referred to in this subsection as the ''panel'').

(2) Membership

The panel shall be composed of 12 members appointed by the Secretary. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher mobility, such as teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

(3) Period of appointment; vacancies

Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

(4) Duties

(A) Study

(i) In general

The panel shall study strategies for increasing mobility and employment opportunities for highly qualified teachers, especially for States with teacher shortages and States with school districts or schools that are difficult to staff.

(ii) Data and analysis

As part of the study, the panel shall evaluate the desirability and feasibility of State initiatives that support teacher mobility by collecting data and conducting effective analysis concerning—

(I) teacher supply and demand;

(II) the development of recruitment and hiring strategies that support teachers; and

(III) increasing reciprocity of certification and licensing across States.

(B) Report

Not later than 1 year after the date on which all members of the panel have been appointed, the panel shall submit to the Secretary and to the appropriate committees of Congress a report containing the results of the study.

(5) Powers

(A) Hearings

The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this subsection.

(B) Information from Federal agencies

The panel may secure directly from any Federal department or agency such information as the panel considers necessary to carry out the provisions of this subsection. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

(C) Postal services

The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(6) Personnel

(A) Travel expenses

The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel

expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, the Secretary may accept the voluntary and uncompensated services of members of the panel.

(B) Detail of Government employees

Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(7) Permanent committee

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

(Pub. L. 89–10, title II, § 2151, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1635.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (e)(2)(A)(ii), 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, 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 14 of the Federal Advisory Committee Act, referred to in subsec. (f)(7), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 6651, Pub. L. 89–10, title II, § 2211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3632, related to higher education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—MATHEMATICS AND SCIENCE PARTNERSHIPS

§ 6661. Purpose; definitions

(a) Purpose

The purpose of this part is to improve the academic achievement of students in the areas of mathematics and science by encouraging State educational agencies, institutions of higher education, local educational agencies, elementary schools, and secondary schools to participate in programs that—

(1) improve and upgrade the status and stature of mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising mathematics and science teachers;

(2) focus on the education of mathematics and science teachers as a career-long process that continuously stimulates teachers' intellectual growth and upgrades teachers' knowledge and skills;

(3) bring mathematics and science teachers in elementary schools and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of mathematics and science teachers and improve such teachers' teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the elementary schools and secondary schools;

(4) develop more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in engineering, mathematics, and science; and

(5) improve and expand training of mathematics and science teachers, including training such teachers in the effective integration of technology into curricula and instruction.

(b) Definitions

In this part:

(1) Eligible partnership

The term ''eligible partnership'' means a partnership that—

(A) shall include—

(i) if grants are awarded under section 6662(a)(1) of this title, a State educational agency;

(ii) an engineering, mathematics, or science department of an institution of higher education; and

(iii) a high-need local educational agency; and

(B) may include—

(i) another engineering, mathematics, science, or teacher training department of an institution of higher education;

(ii) additional local educational agencies, public charter schools, public or private elementary schools or secondary schools, or a consortium of such schools;

(iii) a business; or

(iv) a nonprofit or for-profit organization of demonstrated effectiveness in improving the quality of mathematics and science teachers.

(2) Summer workshop or institute

The term ''summer workshop or institute'' means a workshop or institute, conducted during the summer, that—

(A) is conducted for a period of not less than 2 weeks;

(B) includes, as a component, a program that provides direct interaction between students and faculty; and

(C) provides for followup training during the academic year that is conducted in the classroom for a period of not less than three consecutive or nonconsecutive days, except that—

(i) if the workshop or institute is conducted during a 2-week period, the followup training shall be conducted for a period of not less than 4 days; and

(ii) if the followup training is for teachers in rural school districts, the followup

training may be conducted through distance learning.

(Pub. L. 89–10, title II, § 2201, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1642.)

PRIOR PROVISIONS

A prior section 6661, 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, set forth purposes of former part relating to reading and literacy grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2201 of Pub. L. 89–10 was classified to section 6641 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2201 of Pub. L. 89–10 was classified to section 3011 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 6661a to 6661i were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6661a, 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, defined terms for purposes of former part. See sections 6368 and 6371 of this title.

Section 6661b, 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, related to reading and literacy grants to State educational agencies. See section 6362 of this title.

Section 6661c, 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, related to use of amounts by State educational agencies.

Section 6661d, 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, related to local reading improvement subgrants. See section 6372 of this title.

Section 6661e, 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, related to tutorial assistance subgrants.

Section 6661f, 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, related to national evaluation of programs under former part.

Section 6661g, 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, related to information dissemination. See sections 6367 and 6374 of this title.

Section 6661h, 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, related to State evaluations and performance reports.

Section 6661i, 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, related to authorization of appropriations, reservations from appropriations, and sunset.

§ 6662. Grants for mathematics and science partnerships

(a) Grants authorized

(1) Grants to partnerships

For any fiscal year for which the funds appropriated under section 6663 of this title are less than $100,000,000, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c) of this section.

(2) Grants to State educational agencies

(A) In general

For any fiscal year for which the funds appropriated under section 6663 of this title equal or exceed $100,000,000—

(i) if an eligible partnership in the State was previously awarded a grant under paragraph (1), and the grant period has not ended, the Secretary shall reserve funds in a sufficient amount to make payments to the partnership in accordance with the terms of the grant; and

(ii) the Secretary is authorized to award grants to State educational agencies to enable such agencies to award subgrants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c) of this section.

(B) Allotment

The Secretary shall allot the amount made available under this part for a fiscal year and not reserved under subparagraph (A)(i) among the State educational agencies in proportion to the number of children, aged 5 to 17, who are from families with incomes below the poverty line and reside in a State for the most recent fiscal year for which satisfactory data are available, as compared to the number of such children who reside in all such States for such year.

(C) Minimum allotment

The amount of any State educational agency's allotment under subparagraph (B) for any fiscal year may not be less than one-half of 1 percent of the amount made available under this part for such year.

(3) Duration

The Secretary shall award grants under this part for a period of 3 years.

(4) Supplement, not supplant

Funds received under this part shall be used to supplement, and not supplant, funds that would otherwise be used for activities authorized under this part.

(b) Application requirements

(1) In general

Each eligible partnership desiring a grant or subgrant under this part shall submit an application—

(A) in the case of grants awarded pursuant to subsection (a)(1) of this section, to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require; or

(B) in the case of subgrants awarded pursuant to subsection (a)(2) of this section, to the State educational agency, at such time, in such manner, and accompanied by such information as the State educational agency may require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall include—

(A) the results of a comprehensive assessment of the teacher quality and professional development needs of any schools, local edu-

cational agencies, and State educational agencies that comprise the eligible partnership with respect to the teaching and learning of mathematics and science;

(B) a description of how the activities to be carried out by the eligible partnership will be aligned with challenging State academic content and student academic achievement standards in mathematics and science and with other educational reform activities that promote student academic achievement in mathematics and science;

(C) a description of how the activities to be carried out by the eligible partnership will be based on a review of scientifically based research, and an explanation of how the activities are expected to improve student academic achievement and strengthen the quality of mathematics and science instruction;

(D) a description of—

(i) how the eligible partnership will carry out the authorized activities described in subsection (c) of this section; and

(ii) the eligible partnership's evaluation and accountability plan described in subsection (e) of this section; and

(E) a description of how the eligible partnership will continue the activities funded under this part after the original grant or subgrant period has expired.

(c) Authorized activities

An eligible partnership shall use funds provided under this part for one or more of the following activities related to elementary schools or secondary schools:

(1) Creating opportunities for enhanced and ongoing professional development of mathematics and science teachers that improves the subject matter knowledge of such teachers.

(2) Promoting strong teaching skills for mathematics and science teachers and teacher educators, including integrating reliable scientifically based research teaching methods and technology-based teaching methods into the curriculum.

(3) Establishing and operating mathematics and science summer workshops or institutes, including followup training, for elementary school and secondary school mathematics and science teachers that—

(A) shall—

(i) directly relate to the curriculum and academic areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

(ii) enhance the ability of the teacher to understand and use the challenging State academic content standards for mathematics and science and to select appropriate curricula; and

(iii) train teachers to use curricula that are—

(I) based on scientific research;

(II) aligned with challenging State academic content standards; and

(III) object-centered, experiment-oriented, and concept- and content-based; and

(B) may include—

(i) programs that provide teachers and prospective teachers with opportunities to work under the guidance of experienced teachers and college faculty;

(ii) instruction in the use of data and assessments to inform and instruct classroom practice; and

(iii) professional development activities, including supplemental and followup activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

(4) Recruiting mathematics, engineering, and science majors to teaching through the use of—

(A) signing and performance incentives that are linked to activities proven effective in retaining teachers, for individuals with demonstrated professional experience in mathematics, engineering, or science;

(B) stipends provided to mathematics and science teachers for certification through alternative routes;

(C) scholarships for teachers to pursue advanced course work in mathematics, engineering, or science; and

(D) other programs that the State educational agency determines to be effective in recruiting and retaining individuals with strong mathematics, engineering, or science backgrounds.

(5) Developing or redesigning more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in mathematics and science.

(6) Establishing distance learning programs for mathematics and science teachers using curricula that are innovative, content-based, and based on scientifically based research that is current as of the date of the program involved.

(7) Designing programs to prepare a mathematics or science teacher at a school to provide professional development to other mathematics or science teachers at the school and to assist beginning and other teachers at the school, including (if applicable) a mechanism to integrate the teacher's experiences from a summer workshop or institute into the provision of professional development and assistance.

(8) Establishing and operating programs to bring mathematics and science teachers into contact with working scientists, mathematicians, and engineers, to expand such teachers' subject matter knowledge of and research in science and mathematics.

(9) Designing programs to identify and develop exemplary mathematics and science teachers in the kindergarten through grade 8 classrooms.

(10) Training mathematics and science teachers and developing programs to encourage young women and other underrepresented individuals in mathematics and science careers (including engineering and technology)

to pursue postsecondary degrees in majors leading to such careers.

(d) Coordination and consultation

(1) Partnership grants

An eligible partnership receiving a grant under section 1023[1] of this title shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this part.

(2) National Science Foundation

In carrying out the activities authorized by this part, the Secretary shall consult and coordinate with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops, institutes, or partnerships to improve mathematics and science teaching in elementary schools and secondary schools.

(e) Evaluation and accountability plan

(1) In general

Each eligible partnership receiving a grant or subgrant under this part shall develop an evaluation and accountability plan for activities assisted under this part that includes rigorous objectives that measure the impact of activities funded under this part.

(2) Contents

The plan developed pursuant to paragraph (1)—

(A) shall include measurable objectives to increase the number of mathematics and science teachers who participate in content-based professional development activities;

(B) shall include measurable objectives for improved student academic achievement on State mathematics and science assessments or, where applicable, an International Mathematics and Science Study assessment; and

(C) may include objectives and measures for—

(i) increased participation by students in advanced courses in mathematics and science;

(ii) increased percentages of elementary school teachers with academic majors or minors, or group majors or minors, in mathematics, engineering, or the sciences; and

(iii) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics, engineering, and science.

(f) Report

Each eligible partnership receiving a grant or subgrant under this part shall report annually to the Secretary regarding the eligible partnership's progress in meeting the objectives described in the accountability plan of the partnership under subsection (e) of this section.

(Pub. L. 89–10, title II, § 2202, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1644.)

REFERENCES IN TEXT

Section 1023 of this title, referred to in subsec. (d)(1), was in the original a reference to section 203 of the Higher Education Act of 1965, Pub. L. 89–329. Section 203 of Pub. L. 89–329 was repealed by Pub. L. 110–315, title II, § 201(2), Aug. 14, 2008, 122 Stat. 3133. Pub. L. 110–315 enacted a new section 203 of Pub. L. 89–329, which relates to administrative provisions, and is classified to section 1022b of this title.

PRIOR PROVISIONS

A prior section 2202 of Pub. L. 89–10 was classified to section 6642 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2202 of Pub. L. 89–10 was classified to section 3012 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

[1] See References in Text note below.

§ 6663. Authorization of appropriations

There are authorized to be appropriated to carry out this part $450,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2203, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1647.)

PRIOR PROVISIONS

A prior section 2203 of Pub. L. 89–10 was classified to section 6643 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2203 of Pub. L. 89–10 was classified to section 3013 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART C—INNOVATION FOR TEACHER QUALITY

SUBPART 1—TRANSITIONS TO TEACHING

Division A—Troops-to-Teachers Program

§§ 6671 to 6677. Repealed. Pub. L. 112–239, div. A, title V, § 541(d)(1), Jan. 2, 2013, 126 Stat. 1735

Section 6671, Pub. L. 89–10, title II, § 2301, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1648; amended Pub. L. 107–296, title XVII, § 1704(e)(8), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109–163, div. A, title V, § 515(g)(1), Jan. 6, 2006, 119 Stat. 3236, defined terms for this division.

A prior section 6671, Pub. L. 89–10, title II, § 2301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633, set forth findings and purpose of former part relating to professional development demonstration project, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6672, Pub. L. 89–10, title II, § 2302, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1648, authorized the funding and administration of the Troops-to-Teachers Program.

A prior section 6672, Pub. L. 89–10, title II, § 2302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633, authorized professional development demonstration program, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6673, Pub. L. 89–10, title II, § 2303, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1649, related to recruitment and selection of Troops-to-Teachers Program participants.

A prior section 6673, Pub. L. 89–10, title II, § 2303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634, related to grants for the implementation of professional development programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6674, Pub. L. 89–10, title II, § 2304, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1651, related to participation agreements with, and financial assistance for, Troops-to-Teachers Program participants.

A prior section 6674, Pub. L. 89–10, title II, § 2304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634, related to plan for program to be assisted, prior to

the general amendment of this subchapter by Pub. L. 107–110.

Section 6675, Pub. L. 89–10, title II, § 2305, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1654, related to participation by States in the Troops-to-Teachers Program.

A prior section 6675, Pub. L. 89–10, title II, § 2305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635, related to technical assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6676, Pub. L. 89–10, title II, § 2306, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1654, related to support of innovative preretirement teacher certification programs.

A prior section 6676, Pub. L. 89–10, title II, § 2306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635, related to matching funds from private sources, prior to the general amendment of this subchapter by Pub. L. 107–110.

Section 6677, Pub. L. 89–10, title II, § 2307, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1655; amended Pub. L. 107–296, title XVII, § 1704(e)(9), Nov. 25, 2002, 116 Stat. 2315, required a report not later than Mar. 31, 2006, on the effectiveness of the Troops-to-Teachers Program

TRANSFER OF FUNCTIONS

Responsibility and authority for operation and administration of the Troops-to-Teachers Program in this division transferred to Secretary of Defense, see section 541(a) of Pub. L. 112–239, set out as a note under section 1154 of Title 10, Armed Forces.

EXISTING AGREEMENTS

Pub. L. 112–239, div. A, title V, § 541(d)(3), Jan. 2, 2013, 126 Stat. 1735, provided that: ''The repeal of chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) by paragraph (1) shall not affect—

''(A) the validity or terms of any agreement entered into under such chapter, as in effect immediately before such repeal, before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a) [set out as a note under section 1154 of Title 10, Armed Forces]; or

''(B) the authority to pay assistance, make grants, or obtain reimbursement in connection with such an agreement as in effect before the effective date of the transfer of the Troops-to-Teachers Program under subsection (a).''

Division B—Transition to Teaching Program

§ 6681. Purposes

The purposes of this division are—

(1) to establish a program to recruit and retain highly qualified mid-career professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, as teachers in high-need schools, including recruiting teachers through alternative routes to certification; and

(2) to encourage the development and expansion of alternative routes to certification under State-approved programs that enable individuals to be eligible for teacher certification within a reduced period of time, relying on the experience, expertise, and academic qualifications of an individual, or other factors in lieu of traditional course work in the field of education.

(Pub. L. 89–10, title II, § 2311, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1655.)

§ 6682. Definitions

In this division:

(1) Eligible participant

The term ''eligible participant'' means—

(A) an individual with substantial, demonstrable career experience, including a highly qualified paraprofessional; or

(B) an individual who is a graduate of an institution of higher education who—

(i) has graduated not more than 3 years before applying to an eligible entity to teach under this division; and

(ii) in the case of an individual wishing to teach in a secondary school, has completed an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the individual will teach.

(2) High-need local educational agency

The term ''high-need local educational agency'' has the meaning given the term in section 6602 of this title.

(3) High-need school

The term ''high-need school'' means a school that—

(A) is located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more; or

(B)(i) is located in an area with a high percentage of out-of-field teachers, as defined in section 6602 of this title;

(ii) is within the top quartile of elementary schools and secondary schools statewide, as ranked by the number of unfilled, available teacher positions at the schools;

(iii) is located in an area in which there is a high teacher turnover rate; or

(iv) is located in an area in which there is a high percentage of teachers who are not certified or licensed.

(Pub. L. 89–10, title II, § 2312, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1656.)

§ 6683. Grant program

(a) In general

The Secretary may establish a program to make grants on a competitive basis to eligible entities to develop State and local teacher corps or other programs to establish, expand, or enhance teacher recruitment and retention efforts.

(b) Eligible entity

To be eligible to receive a grant under this section, an entity shall be—

(1) a State educational agency;

(2) a high-need local educational agency;

(3) a for-profit or nonprofit organization that has a proven record of effectively recruiting and retaining highly qualified teachers, in a partnership with a high-need local educational agency or with a State educational agency;

(4) an institution of higher education, in a partnership with a high-need local educational agency or with a State educational agency;

(5) a regional consortium of State educational agencies; or

(6) a consortium of high-need local educational agencies.

(c) Priority

In making such a grant, the Secretary shall give priority to a partnership or consortium

that includes a high-need State educational agency or local educational agency.

(d) Application

(1) In general

To be eligible to receive a grant under this section, an entity described in subsection (b) of this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Contents

The application shall describe—

(A) one or more target recruitment groups on which the applicant will focus its recruitment efforts;

(B) the characteristics of each such target group that—

(i) show the knowledge and experience of the group's members; and

(ii) demonstrate that the members are eligible to achieve the objectives of this section;

(C) describe how the applicant will use funds received under this section to develop a teacher corps or other program to recruit and retain highly qualified midcareer professionals (which may include highly qualified paraprofessionals), recent college graduates, and recent graduate school graduates, as highly qualified teachers in high-need schools operated by high-need local educational agencies;

(D) explain how the program carried out under the grant will meet the relevant State laws (including regulations) related to teacher certification or licensing and facilitate the certification or licensing of such teachers;

(E) describe how the grant will increase the number of highly qualified teachers, in high-need schools operated by high-need local educational agencies (in urban or rural school districts), and in high-need academic subjects, in the jurisdiction served by the applicant; and

(F) describe how the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit (particularly through activities that have proven effective in retaining highly qualified teachers), train, place, support, and provide teacher induction programs to program participants under this division, including providing evidence of the commitment of the institutions, agencies, or organizations to the applicant's programs.

(e) Duration of grants

The Secretary may make grants under this section for periods of 5 years. At the end of the 5-year period for such a grant, the grant recipient may apply for an additional grant under this section.

(f) Equitable distribution

To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this section among the regions of the United States.

(g) Uses of funds

(1) In general

An entity that receives a grant under this section shall use the funds made available through the grant to develop a teacher corps or other program in order to establish, expand, or enhance a teacher recruitment and retention program for highly qualified mid-career professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, who are eligible participants, including activities that provide alternative routes to teacher certification.

(2) Authorized activities

The entity shall use the funds to carry out a program that includes two or more of the following activities:

(A) Providing scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining teachers in high-need schools operated by high-need local educational agencies, to all eligible participants, in an amount not to exceed $5,000 per participant.

(B) Carrying out pre- and post-placement induction or support activities that have proven effective in recruiting and retaining teachers, such as—

(i) teacher mentoring;

(ii) providing internships;

(iii) providing high-quality, preservice coursework; and

(iv) providing high-quality, sustained inservice professional development.

(C) Carrying out placement and ongoing activities to ensure that teachers are placed in fields in which the teachers are highly qualified to teach and are placed in high-need schools.

(D) Making payments to pay for costs associated with accepting teachers recruited under this section from among eligible participants or provide financial incentives to prospective teachers who are eligible participants.

(E) Collaborating with institutions of higher education in developing and implementing programs to facilitate teacher recruitment (including teacher credentialing) and teacher retention programs.

(F) Carrying out other programs, projects, and activities that are designed and have proven to be effective in recruiting and retaining teachers, and that the Secretary determines to be appropriate.

(G) Developing long-term recruitment and retention strategies including developing—

(i) a statewide or regionwide clearinghouse for the recruitment and placement of teachers;

(ii) administrative structures to develop and implement programs to provide alternative routes to certification;

(iii) reciprocity agreements between or among States for the certification or licensing of teachers; or

(iv) other long-term teacher recruitment and retention strategies.

(3) Effective programs

The entity shall use the funds only for programs that have proven to be effective in both recruiting and retaining teachers.

(h) Requirements

(1) Targeting

An entity that receives a grant under this section to carry out a program shall ensure that participants in the program recruited with funds made available under this section are placed in high-need schools operated by high-need local educational agencies. In placing the participants in the schools, the entity shall give priority to the schools that are located in areas with the highest percentages of students from families with incomes below the poverty line.

(2) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, State and local public funds expended for teacher recruitment and retention programs, including programs to recruit the teachers through alternative routes to certification.

(3) Partnerships and consortia of local educational agencies

In the case of a partnership established by a local educational agency to carry out a program under this division, or a consortium of such agencies established to carry out a program under this division, the local educational agency or consortium shall not be eligible to receive funds through a State program under this division.

(i) Period of service

A program participant in a program under this division who receives training through the program shall serve a high-need school operated by a high-need local educational agency for at least 3 years.

(j) Repayment

The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that program participants who receive a stipend or other financial incentive under subsection (g)(2)(A) of this section, but fail to complete their service obligation under subsection (i) of this section, repay all or a portion of such stipend or other incentive.

(k) Administrative funds

No entity that receives a grant under this section shall use more than 5 percent of the funds made available through the grant for the administration of a program under this division carried out under the grant.

(Pub. L. 89–10, title II, § 2313, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1656.)

§ 6684. Evaluation and accountability for recruiting and retaining teachers

(a) Evaluation

Each entity that receives a grant under this division shall conduct—

(1) an interim evaluation of the program funded under the grant at the end of the third year of the grant period; and

(2) a final evaluation of the program at the end of the fifth year of the grant period.

(b) Contents

In conducting the evaluation, the entity shall describe the extent to which local educational agencies that received funds through the grant have met the goals relating to teacher recruitment and retention described in the application.

(c) Reports

The entity shall prepare and submit to the Secretary and to Congress interim and final reports containing the results of the interim and final evaluations, respectively.

(d) Revocation

If the Secretary determines that the recipient of a grant under this division has not made substantial progress in meeting such goals and the objectives of the grant by the end of the third year of the grant period, the Secretary—

(1) shall revoke the payment made for the fourth year of the grant period; and

(2) shall not make a payment for the fifth year of the grant period.

(Pub. L. 89–10, title II, § 2314, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1659.)

Division C—General Provisions

§ 6691. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Reservation

From the funds appropriated to carry out this subpart for fiscal year 2002, the Secretary shall reserve not more than $30,000,000 to carry out division A of this subpart.

(Pub. L. 89–10, title II, § 2321, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

SUBPART 2—NATIONAL WRITING PROJECT

§ 6701. Purposes

The purposes of this subpart are—

(1) to support and promote the expansion of the National Writing Project network of sites so that teachers in every region of the United States will have access to a National Writing Project program;

(2) to ensure the consistent high quality of the sites through ongoing review, evaluation, and technical assistance;

(3) to support and promote the establishment of programs to disseminate effective practices and research findings about the teaching of writing; and

(4) to coordinate activities assisted under this subpart with activities assisted under this chapter.

(Pub. L. 89–10, title II, § 2331, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

PRIOR PROVISIONS

A prior section 6701, 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, related to reporting and accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6702. National Writing Project

(a) Authorization

The Secretary is authorized to award a grant to the National Writing Project, a nonprofit educational organization that has as its primary purpose the improvement of the quality of student writing and learning (hereafter in this section referred to as the ''grantee'') to improve the teaching of writing and the use of writing as a part of the learning process in our Nation's classrooms.

(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 section, 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 (e) 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 $100,000 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) 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 determines 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.

(f) Evaluation

(1) In general

The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this subpart. 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 Congress.

(2) Funding limitation

The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (h) of this section for fiscal year 2002 and each of the 5 succeeding fiscal years to conduct the evaluation described in paragraph (1).

(g) 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.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $15,000,000 as may be nec-

essary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2332, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

PRIOR PROVISIONS

A prior section 6702, 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, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

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.

SUBPART 3—CIVIC EDUCATION

§ 6711. Short title

This subpart may be cited as the ''Education for Democracy Act''.

(Pub. L. 89–10, title II, § 2341, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

§ 6712. Purpose

It is the purpose of this subpart—

(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

(2) to foster civic competence and responsibility; and

(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

(Pub. L. 89–10, title II, § 2342, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

§ 6713. General authority

(a) Authority

The Secretary is authorized to award grants to, or enter into contracts with—

(1) the Center for Civic Education, to carry out civic education activities under sections 6714 and 6715 of this title;

(2) the National Council on Economic Education, to carry out economic education activities under section 6715 of this title; and

(3) organizations experienced in the development of curricula and programs in civics and government education and economic education for students in elementary schools and secondary schools in countries other than the United States, to carry out civic education activities under section 6715 of this title.

(b) Distribution for cooperative civic education and economic education exchange programs

(1) Limitation

Not more than 40 percent of the amount appropriated under section 6716 of this title for a fiscal year shall be used to carry out section 6715 of this title.

(2) Distribution

Of the amount used to carry out section 6715 of this title for a fiscal year (consistent with paragraph (1)), the Secretary shall use—

(A) 37.5 percent for a grant or contract for the Center for Civic Education;

(B) 37.5 percent for a grant or contract for the National Council on Economic Education; and

(C) 25 percent for not less than 1, but not more than 3, grants or contracts for organizations described in subsection (a)(3) of this section.

(Pub. L. 89–10, title II, § 2343, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

AMERICAN HISTORY AND CIVICS EDUCATION

Pub. L. 108–474, Dec. 21, 2004, 118 Stat. 3898, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'American History and Civics Education Act of 2004'.

''SEC. 2. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS; CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

''(a) ESTABLISHMENT.—The Secretary of Education (referred to in this Act as the 'Secretary') may award not more than 12 grants, on a competitive basis—

''(1) to entities to establish Presidential Academies for Teaching of American History and Civics that may offer workshops for both veteran and new teachers of American history and civics; and

''(2) to entities to establish Congressional Academies for Students of American History and Civics.

''(b) APPLICATION.—An entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) DEMONSTRATED EXPERTISE.—The Secretary shall require that each entity, to be eligible to receive a grant under this section, demonstrate expertise in historical methodology or the teaching of history.

''(d) AVAILABLE FUNDS.—To carry out this section, the Secretary may use any funds appropriated for fiscal year 2005 or any subsequent fiscal year to carry out part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.).

''SEC. 3. NATIONAL HISTORY DAY PROGRAM.

''The Secretary may award grants to the National History Day Program for the purpose of continuing and expanding its activities to promote the study of history and improve instruction.''

§ 6714. We the People program

(a) The Citizen and the Constitution

(1) Educational activities

The Center for Civic Education—

(A) shall use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to continue and expand the educational activities of the program entitled the ''We the People. . . The Citizen and the Constitution'' program administered by such center;

(ii) to carry out activities to enhance student attainment of challenging aca-

demic content standards in civics and government;

(iii) to provide a course of instruction on the basic principles of the Nation's constitutional democracy and the history of the Constitution of the United States, including the Bill of Rights;

(iv) to provide, at the request of a participating school, school and community simulated congressional hearings following the course of instruction described in clause (iii); and

(v) to provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

(B) may use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to provide advanced, sustained, and ongoing training of teachers about the Constitution of the United States and the political system of the United States;

(ii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

(iii) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Availability of program

The education program authorized under this subsection shall be made available to public and private elementary schools and secondary schools, including Bureau funded schools, in the 435 congressional districts, and in the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Project Citizen

(1) Educational activities

The Center for Civic Education—

(A) shall use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to continue and expand the educational activities of the program entitled the ''We the People. . . Project Citizen'' program administered by the Center;

(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

(iii) to provide 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 of the United States; and

(iv) to provide an annual national showcase or competition; and

(B) may use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to provide optional school and community simulated State legislative hearings;

(ii) to provide advanced, sustained, and ongoing training of teachers on the roles of State and local governments in the Federal system established by the Constitution of the United States;

(iii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

(iv) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Availability of program

The education program authorized under this subsection shall be made available to public and private middle schools, including Bureau funded schools, in the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(c) Bureau-funded school defined

In this section, the term ''Bureau-funded school'' has the meaning given such term in section 2026 of title 25.[1]

(Pub. L. 89–10, title II, § 2344, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1663.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (c), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. See section 2021 of Title 25.

§ 6715. Cooperative civic education and economic education exchange programs

(a) Cooperative education exchange programs

The Center for Civic Education, the National Council on Economic Education, and organizations described in section 6713(a)(3) of this title shall use funds made available under grants or contracts under section 6713 of this title to carry out cooperative education exchange programs in accordance with this section.

(b) Purpose

The purpose of the cooperative education exchange programs carried out under this section shall be—

(1) to make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

(2) to assist eligible countries in the adaptation, implementation, and institutionalization of such programs;

(3) to create and implement civics and government education, and economic education, programs for students that draw upon the experiences of the participating eligible countries;

(4) to provide a means for the exchange of ideas and experiences in civics and government education, and economic education,

[1] See References in Text note below.

among political, educational, governmental, and private sector leaders of participating eligible countries; and

(5) to provide support for—

(A) independent research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(B) effective participation in, and the preservation and improvement of, an efficient market economy.

(c) Activities

In carrying out the cooperative education exchange programs assisted under this section, the Center for Civic Education, the National Council on Economic Education, and organizations described in section 6713(a)(3) of this title shall—

(1) provide to the participants from eligible countries—

(A) seminars on the basic principles of United States constitutional democracy and economic system, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

(C) translations and adaptations with respect to United States civics and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers, translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

(D) independent research and evaluation assistance—

(i) to determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(ii) to identify effective participation in, and the preservation and improvement of, an efficient market economy;

(2) provide to the participants from the United States—

(A) seminars on the histories, economies, and systems of government of eligible countries;

(B) visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education, and economic education, located in eligible countries;

(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(E) independent research and evaluation assistance to determine—

(i) the effects of the cooperative education exchange programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(ii) effective participation in, and improvement of, an efficient market economy; and

(3) assist participants from eligible countries and the United States to participate in international conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(d) Participants

The primary participants in the cooperative education exchange programs assisted under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

(e) Consultation

The Secretary may award a grant to, or enter into a contract with, the entities described in section 6713 of this title to carry out programs assisted under this section only if the Secretary of State concurs with the Secretary that such grant, or contract, respectively, is consistent with the foreign policy of the United States.

(f) Avoidance of duplication

With the concurrence of the Secretary of State, the Secretary shall ensure that—

(1) the activities carried out under the programs assisted under this section are not duplicative of other activities conducted in eligible countries; and

(2) any institutions in eligible countries, with which the Center for Civic Education, the National Council on Economic Education, or organizations described in section 6713(a)(3) of this title may work in conducting such activities, are creditable.

(g) Eligible country defined

In this section, the term ''eligible country'' means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 5801 of title 22, the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 4359a(d) of this title)[1] if the Secretary, with the concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

(Pub. L. 89–10, title II, § 2345, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1664.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 4359a(d) of this title, referred to in subsec. (g), was in the original ''section 209(d) of the Education for the Deaf Act'', and was translated as reading ''section 209(d) of the Education of the Deaf Act of 1986'', to reflect the probable intent of Congress.

§ 6716. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $30,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2346, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1666.)

SUBPART 4—TEACHING OF TRADITIONAL AMERICAN HISTORY

§ 6721. Establishment of program

(a) In general

The Secretary may establish and implement a program to be known as the ''Teaching American History Grant Program'', under which the Secretary shall award grants on a competitive basis to local educational agencies—

(1) to carry out activities to promote the teaching of traditional American history in elementary schools and secondary schools as a separate academic subject (not as a component of social studies); and

(2) for the development, implementation, and strengthening of programs to teach traditional American history as a separate academic subject (not as a component of social studies) within elementary school and secondary school curricula, including the implementation of activities—

(A) to improve the quality of instruction; and

(B) to provide professional development and teacher education activities with respect to American history.

(b) Required partnership

A local educational agency that receives a grant under subsection (a) of this section shall carry out activities under the grant in partnership with one or more of the following:

(1) An institution of higher education.

(2) A nonprofit history or humanities organization.

(3) A library or museum.

(c) Application

To be eligible to receive an[1] grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 89–10, title II, § 2351, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1666.)

§ 6722. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2352, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

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

SUBPART 5—TEACHER LIABILITY PROTECTION

§ 6731. Short title

This subpart may be cited as the ''Paul D. Coverdell Teacher Protection Act of 2001''.

(Pub. L. 89–10, title II, § 2361, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6732. Purpose

The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

(Pub. L. 89–10, title II, § 2362, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6733. Definitions

For purposes of this subpart:

(1) Economic loss

The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(3) Noneconomic loss

The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

(4) School

The term ''school'' means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

(5) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Teacher

The term ''teacher'' means—

(A) a teacher, instructor, principal, or administrator;

(B) another educational professional who works in a school;

(C) a professional or nonprofessional employee who—

(i) works in a school; and

(ii)(I) in the employee's job, maintains discipline or ensures safety; or

(II) in an emergency, is called on to maintain discipline or ensure safety; or

(D) an individual member of a school board (as distinct from the board).

(Pub. L. 89–10, title II, § 2363, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6734. Applicability

This subpart shall only apply to States that receive funds under this chapter, and shall apply to such a State as a condition of receiving such funds.

(Pub. L. 89–10, title II, § 2364, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6735. Preemption and election of State nonapplicability

(a) Preemption

This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) Election of State regarding nonapplicability

This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

(Pub. L. 89–10, title II, § 2365, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6736. Limitation on liability for teachers

(a) Liability protection for teachers

Except as provided in subsection (b) of this section, no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;

(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) Exceptions to teacher liability protection

If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

ate[1] law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(c) Limitation on punitive damages based on the actions of teachers

(1) General rule

Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(d) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Hiring

The limitations on the liability of a teacher under this subpart shall not apply to mis-

[1] So in original. Probably should be "(3) A State".

conduct during background investigations, or during other actions, involved in the hiring of a teacher.

(e) Rules of construction

(1) Concerning responsibility of teachers to schools and governmental entities

Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

(2) Concerning corporal punishment

Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

(Pub. L. 89–10, title II, § 2366, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6737. Allocation of responsibility for noneconomic loss

(a) General rule

In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b) of this section.

(b) Amount of liability

(1) In general

(A) Liability

Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

(B) Separate judgment

The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

(c) Rule of construction

Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a) of this section, beyond the limitations established in this section.

(Pub. L. 89–10, title II, § 2367, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670.)

§ 6738. Effective date

(a) In general

This subpart shall take effect 90 days after January 8, 2002.

(b) Application

This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

(Pub. L. 89–10, title II, § 2368, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670.)

REFERENCES IN TEXT

For the effective date of the No Child Left Behind Act of 2001, referred to in subsec. (b), see section 5 of Pub. L. 107–110, set out as an Effective Date of 2002 Amendment note under section 6301 of this title.

PART D—ENHANCING EDUCATION THROUGH TECHNOLOGY

§ 6751. Short title

This part may be cited as the ''Enhancing Education Through Technology Act of 2001''.

(Pub. L. 89–10, title II, § 2401, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1671.)

PRIOR PROVISIONS

A prior section 2401 of Pub. L. 89–10 was classified to section 6701 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6752. Purposes and goals

(a) Purposes

The purposes of this part are the following:

(1) To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary schools and secondary schools to improve student academic achievement.

(2) To encourage the establishment or expansion of initiatives, including initiatives involving public-private partnerships, designed to increase access to technology, particularly in schools served by high-need local educational agencies.

(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers.

(4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to integrate technology effectively into curricula and instruction that are aligned with challenging State academic content and student academic achievement standards, through such means as high-quality professional development programs.

(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to training and updated research in teaching and learning through electronic means.

(6) To support the development and utilization of electronic networks and other innovative methods, such as distance learning, of delivering specialized or rigorous academic

courses and curricula for students in areas that would not otherwise have access to such courses and curricula, particularly in geographically isolated regions.

(7) To support the rigorous evaluation of programs funded under this part, particularly regarding the impact of such programs on student academic achievement, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.

(8) To support local efforts using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

(b) Goals

(1) Primary goal

The primary goal of this part is to improve student academic achievement through the use of technology in elementary schools and secondary schools.

(2) Additional goals

The additional goals of this part are the following:

(A) To assist every student in crossing the digital divide by ensuring that every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability.

(B) To encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely implemented as best practices by State educational agencies and local educational agencies.

(Pub. L. 89–10, title II, § 2402, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1671.)

PRIOR PROVISIONS

A prior section 2402 of Pub. L. 89–10 was classified to section 6702 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6753. Definitions

In this part:

(1) Eligible local entity

The term ''eligible local entity'' means—

(A) a high-need local educational agency; or

(B) an eligible local partnership.

(2) Eligible local partnership

The term ''eligible local partnership'' means a partnership that—

(A) shall include at least one high-need local educational agency and at least one—

(i) local educational agency that can demonstrate that teachers in schools served by the agency are effectively integrating technology and proven teaching practices into instruction, based on a review of relevant research, and that the integration results in improvement in—

(I) classroom instruction in the core academic subjects; and

(II) the preparation of students to meet challenging State academic content and student academic achievement standards;

(ii) institution of higher education that is in full compliance with the reporting requirements of section 1027(f)[1] of this title and that has not been identified by its State as low-performing under section 1028[1] of this title;

(iii) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology in instruction; or

(iv) public or private nonprofit organization with demonstrated experience in the application of educational technology to instruction; and

(B) may include other local educational agencies, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(3) High-need local educational agency

The term ''high-need local educational agency'' means a local educational agency that—

(A) is among the local educational agencies in a State with the highest numbers or percentages of children from families with incomes below the poverty line; and

(B)(i) operates one or more schools identified under section 6316 of this title; or

(ii) has a substantial need for assistance in acquiring and using technology.

(Pub. L. 89–10, title II, § 2403, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1672.)

REFERENCES IN TEXT

Sections 1027 and 1028 of this title, referred to in par. (2)(A)(ii), were in the original references to sections 207 and 208 of the Higher Education Act of 1965, Pub. L. 89–329. Sections 207 and 208 of Pub. L. 89–329 were repealed by Pub. L. 110–315, title II, § 201(2), Aug. 14, 2008, 122 Stat. 3133. Pub. L. 110–315 enacted new sections 207 and 208 of Pub. L. 89–329, which relate to state functions and general provisions, and are classified, respectively, to sections 1022f and 1022g of this title.

§ 6754. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out subparts 1 and 2 of this part, $1,000,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Allocation of funds between State and local and national initiatives

The amount of funds made available under subsection (a) of this section for a fiscal year shall be allocated so that—

(1) not less than 98 percent is made available to carry out subpart 1 of this part; and

(2) not more than 2 percent is made available to carry out subpart 2 of this part.

(c) Allocation of funds for study

Of the total amount of funds allocated under subsection (b)(2) of this section for fiscal years

[1] See References in Text note below.

2002 through 2007, not more than $15,000,000 may be used to carry out section 6771(a) of this title.

(d) Limitation

Of the amount of funds made available to a recipient of funds under this part for a fiscal year, not more than 5 percent may be used by the recipient for administrative costs or technical assistance, of which not more than 60 percent may be used by the recipient for administrative costs.

(Pub. L. 89–10, title II, § 2404, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1673.)

SUBPART 1—STATE AND LOCAL TECHNOLOGY GRANTS

§ 6761. Allotment and reallotment

(a) Reservations and allotment

From the amount made available to carry out this subpart under section 6754(b)(1) of this title for a fiscal year—

(1) the Secretary shall reserve—

(A) three-fourths of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs;

(B) one-half of 1 percent to provide assistance under this subpart to the outlying areas; and

(C) such sums as may be necessary for continuation awards on grants awarded under section 3136[1] prior to January 8, 2002; and

(2) from the remainder of such amount and subject to subsection (b) of this section, the Secretary shall make grants by allotting to each eligible State educational agency under this subpart an amount that bears the same relationship to such remainder for such year as the amount received under part A of subchapter I of this chapter for such year by such State educational agency bears to the amount received under such part for such year by all State educational agencies.

(b) Minimum allotment

The amount of any State educational agency's allotment under subsection (a)(2) of this section for any fiscal year may not be less than one-half of 1 percent of the amount made available for allotments to States under this part for such year.

(c) Reallotment of unused funds

If any State educational agency does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment under this subpart for that fiscal year, the Secretary shall reallot the amount of the State educational agency's allotment, or the unused portion of the allotment, to the remaining State educational agencies that use their entire allotments under this subpart in accordance with this section.

(d) State educational agency defined

In this section, the term ''State educational agency'' does not include an agency of an outlying area or the Bureau of Indian Affairs.

(Pub. L. 89–10, title II, § 2411, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1673.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 3136 prior to January 8, 2002, referred to in subsec. (a)(1)(C), means section 3136 of Pub. L. 89–10, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648, which was classified to section 6846 of this title prior to the general amendment of subchapter III of this chapter by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.

§ 6762. Use of allotment by State

(a) In general

Of the amount provided to a State educational agency (from the agency's allotment under section 6761(a)(2) of this title) for a fiscal year—

(1) the State educational agency may use not more than 5 percent to carry out activities under section 6765 of this title; and

(2) the State educational agency shall distribute the remainder as follows:

(A) From 50 percent of the remainder, the State educational agency shall award subgrants by allocating to each eligible local educational agency that has submitted an application to the State educational agency under section 6764 of this title, for the activities described in section 6766 of this title, an amount that bears the same relationship to 50 percent of the remainder for such year as the amount received under part A of subchapter I of this chapter for such year by such local educational agency bears to the amount received under such part for such year by all local educational agencies within the State.

(B) From 50 percent of the remainder and subject to subsection (b) of this section, the State educational agency shall award subgrants, through a State-determined competitive process, to eligible local entities that have submitted applications to the State educational agency under section 6764 of this title, for the activities described in section 6766 of this title.

(b) Sufficient amounts

(1) Special rule

In awarding a subgrant under subsection (a)(2)(B) of this section, the State educational agency shall—

(A) determine the local educational agencies that—

(i) received allocations under subsection (a)(2)(A) of this section that are not of sufficient size to be effective, consistent with the purposes of this part; and

(ii) are eligible local entities;

(B) give priority to applications submitted by eligible local educational agencies described in subparagraph (A); and

(C) determine the minimum amount for awards under subsection (a)(2)(B) of this section to ensure that subgrants awarded under that subsection are of sufficient size to be effective.

(2) Sufficiency

In awarding subgrants under subsection (a)(2)(B) of this section, each State educational agency shall ensure that each subgrant is of sufficient size and duration, and that the program funded by the subgrant is of

sufficient scope and quality, to carry out the purposes of this part effectively.

(3) Distribution

In awarding subgrants under subsection (a)(2)(B) of this section, each State educational agency shall ensure an equitable distribution of assistance under this subpart among urban and rural areas of the State, according to the demonstrated need of those local educational agencies serving the areas.

(c) Fiscal agent

If an eligible local partnership receives a subgrant under subsection (a)(2)(B) of this section, a local educational agency in the partnership shall serve as the fiscal agent for the partnership.

(d) Technical assistance

Each State educational agency receiving a grant under section 6761(a) of this title shall—

(1) identify the local educational agencies served by the State educational agency that—

(A) have the highest numbers or percentages of children from families with incomes below the poverty line; and

(B) demonstrate to such State educational agency the greatest need for technical assistance in developing an application under section 6764 of this title; and

(2) offer the technical assistance described in paragraph (1)(B) to those local educational agencies.

(Pub. L. 89–10, title II, § 2412, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1674.)

§ 6763. State applications

(a) In general

To be eligible to receive a grant under this subpart, a State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may specify, an application containing a new or updated statewide long-range strategic educational technology plan (which shall address the educational technology needs of local educational agencies) and such other information as the Secretary may reasonably require.

(b) Contents

Each State application submitted under subsection (a) of this section shall include each of the following:

(1) An outline of the State educational agency's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to integrate technology effectively into curricula and instruction.

(2) A description of the State educational agency's goals for using advanced technology to improve student academic achievement, and how those goals are aligned with challenging State academic content and student academic achievement standards.

(3) A description of how the State educational agency will take steps to ensure that all students and teachers in the State, particularly students and teachers in districts served by high-need local educational agencies, have increased access to technology.

(4) A description of the process and accountability measures that the State educational agency will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction.

(5) A description of how the State educational agency will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(6) An assurance that financial assistance provided under this subpart will supplement, and not supplant, State and local funds.

(7) A description of how the plan incorporates teacher education, professional development, and curriculum development, and how the State educational agency will work to ensure that teachers and principals in a State receiving funds under this part are technologically literate.

(8) A description of—

(A) how the State educational agency will provide technical assistance to applicants under section 6764 of this title, especially to those applicants serving the highest numbers or percentages of children in poverty or with the greatest need for technical assistance; and

(B) the capacity of the State educational agency to provide such assistance.

(9) A description of technology resources and systems that the State will provide for the purpose of establishing best practices that can be widely replicated by State educational agencies and local educational agencies in the State and in other States.

(10) A description of the State's long-term strategies for financing technology to ensure that all students, teachers, and classrooms have access to technology.

(11) A description of the State's strategies for using technology to increase parental involvement.

(12) A description of how the State educational agency will ensure that each subgrant awarded under section 6762(a)(2)(B) of this title is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

(13) A description of how the State educational agency will ensure ongoing integration of technology into school curricula and instructional strategies in all schools in the State, so that technology will be fully integrated into the curricula and instruction of the schools by December 31, 2006.

(14) A description of how the local educational agencies in the State will provide incentives to teachers who are technologically literate and teaching in rural or urban areas, to encourage such teachers to remain in those areas.

(15) A description of how public and private entities will participate in the implementation and support of the plan.

(c) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

(d) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) Response

If the State educational agency responds to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c) of this section.

(g) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title II, § 2413, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1675.)

§ 6764. Local applications

(a) In general

To be eligible to receive a subgrant from a State educational agency under this subpart, a local educational agency or eligible local entity shall submit to the State educational agency an application containing a new or updated local long-range strategic educational technology plan that is consistent with the objectives of the statewide educational technology plan described in section 6763(a) of this title, and such other information as the State educational agency may reasonably require, at such time and in such manner as the State educational agency may require.

(b) Contents

The application shall include each of the following:

(1) A description of how the applicant will use Federal funds under this subpart to improve the student academic achievement, including technology literacy, of all students attending schools served by the local educational agency and to improve the capacity of all teachers teaching in schools served by the local educational agency to integrate technology effectively into curricula and instruction.

(2) A description of the applicant's specific goals for using advanced technology to improve student academic achievement, aligned with challenging State academic content and student academic achievement standards.

(3) A description of the steps the applicant will take to ensure that all students and teachers in schools served by the local educational agency involved have increased access to educational technology, including how the agency would use funds under this subpart (such as combining the funds with funds from other sources), to help ensure that—

(A) students in high-poverty and high-needs schools, or schools identified under section 6316 of this title, have access to technology; and

(B) teachers are prepared to integrate technology effectively into curricula and instruction.

(4) A description of how the applicant will—

(A) identify and promote curricula and teaching strategies that integrate technology effectively into curricula and instruction, based on a review of relevant research, leading to improvements in student academic achievement, as measured by challenging State academic content and student academic achievement standards; and

(B) provide ongoing, sustained professional development for teachers, principals, administrators, and school library media personnel serving the local educational agency, to further the effective use of technology in the classroom or library media center, including, if applicable, a list of the entities that will be partners with the local educational agency involved in providing the ongoing, sustained professional development.

(5) A description of the type and costs of technologies to be acquired under this subpart, including services, software, and digital curricula, and including specific provisions for interoperability among components of such technologies.

(6) A description of how the applicant will coordinate activities carried out with funds provided under this subpart with technology-related activities carried out with funds available from other Federal, State, and local sources.

(7) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) into curricula and instruction, and a timeline for such integration.

(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(9) A description of how the applicant will ensure the effective use of technology to promote parental involvement and increase communication with parents, including a description of how parents will be informed of the technology being applied in their child's education so that the parents are able to reinforce at home the instruction their child receives at school.

(10) A description of how programs will be developed, where applicable, in collaboration with adult literacy service providers, to maximize the use of technology.

(11) A description of the process and accountability measures that the applicant will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(12) A description of the supporting resources (such as services, software, other electronically delivered learning materials, and print resources) that will be acquired to ensure successful and effective uses of technology.

(c) Combined applications

A local educational agency that is an eligible local entity and submits an application to the State educational agency under this section for funds awarded under section 6762(a)(2)(A) of this title may combine the agency's application for funds awarded under that section with an application for funds awarded under section 6762(a)(2)(B) of this title.

(d) Special rule

(1) Consortium applications

(A) In general

For any fiscal year, a local educational agency applying for financial assistance described in section 6762(a)(2)(A) of this title may apply as part of a consortium that includes other local educational agencies, institutions of higher education, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(B) Fiscal agent

If a local educational agency applies for and receives financial assistance described in section 6762(a)(2)(A) of this title as part of a consortium, the local educational agency shall serve as the fiscal agent for the consortium.

(2) State educational agency assistance

At the request of a local educational agency, a State educational agency may assist the local educational agency in the formation of a consortium described in paragraph (1) to provide services for the teachers and students served by the local educational agency.

(Pub. L. 89–10, title II, § 2414, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1677.)

§ 6765. State activities

From funds made available under section 6762(a)(1) of this title, a State educational agency shall carry out activities and assist local efforts to carry out the purposes of this part, which may include the following activities:

(1) Developing, or assisting applicants or recipients of funds under this subpart in the development and utilization of, innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, and providing other technical assistance to such applicants or recipients throughout the State, with priority given to high-need local educational agencies.

(2) Establishing or supporting public-private initiatives (such as interest-free or reduced-cost loans) for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

(3) Assisting recipients of funds under this subpart in providing sustained and intensive, high-quality professional development based on a review of relevant research in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, including training in the use of technology to—

(A) access data and resources to develop curricula and instructional materials;

(B) enable teachers—

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards and student academic achievement standards.

(4) Assisting recipients of funds under this subpart in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

(5) Developing performance measurement systems to determine the effectiveness of educational technology programs funded under this subpart, particularly in determining the extent to which activities funded under this

subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(6) Collaborating with other State educational agencies on distance learning, including making specialized or rigorous academic courses and curricula available to students in areas that would not otherwise have access to such courses and curricula.

(Pub. L. 89–10, title II, § 2415, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1679.)

§ 6766. Local activities

(a) Professional development

(1) In general

A recipient of funds made available under section 6762(a)(2) of this title shall use not less than 25 percent of such funds to provide ongoing, sustained, and intensive, high-quality professional development. The recipient shall provide professional development in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, such as professional development in the use of technology—

(A) to access data and resources to develop curricula and instructional materials;

(B) to enable teachers—

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) to lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards, including increasing student technology literacy, and student academic achievement standards.

(2) Waivers

Paragraph (1) shall not apply to a recipient of funds made available under section 6762(a)(2) of this title that demonstrates, to the satisfaction of the State educational agency involved, that the recipient already provides ongoing, sustained, and intensive, high-quality professional development that is based on a review of relevant research, to all teachers in core academic subjects in the integration of advanced technologies, including emerging technologies, into curricula and instruction.

(b) Other activities

In addition to the activities described in subsection (a) of this section, a recipient of funds made available by a State educational agency under section 6762(a)(2) of this title shall use such funds to carry out other activities consistent with this subpart, which may include the following:

(1) Establishing or expanding initiatives, particularly initiatives involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need schools to technology.

(2) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement, including technology literacy—

(A) through the use of teaching practices that are based on a review of relevant research and are designed to prepare students to meet challenging State academic content and student academic achievement standards; and

(B) by the development and utilization of innovative distance learning strategies to deliver specialized or rigorous academic courses and curricula to areas that would not otherwise have access to such courses and curricula.

(3) Acquiring proven and effective courses and curricula that include integrated technology and are designed to help students meet challenging State academic content and student academic achievement standards.

(4) Utilizing technology to develop or expand efforts to connect schools and teachers with parents and students to promote meaningful parental involvement, to foster increased communication about curricula, assignments, and assessments between students, parents, and teachers, and to assist parents to understand the technology being applied in their child's education, so that parents are able to reinforce at home the instruction their child receives at school.

(5) Preparing one or more teachers in elementary schools and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology, and providing bonus payments to the technology leaders.

(6) Acquiring, adapting, expanding, implementing, repairing, and maintaining existing and new applications of technology, to support the school reform effort and to improve student academic achievement, including technology literacy.

(7) Acquiring connectivity linkages, resources, and services (including the acquisition of hardware and software and other electronically delivered learning materials) for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement.

(8) Using technology to collect, manage, and analyze data to inform and enhance teaching and school improvement efforts.

(9) Implementing performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic con-

tent and student academic achievement standards.

(10) Developing, enhancing, or implementing information technology courses.

(Pub. L. 89–10, title II, § 2416, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1680.)

SUBPART 2—NATIONAL TECHNOLOGY ACTIVITIES

§ 6771. National activities

(a) Study

Using funds made available under section 6754(b)(2) of this title, the Secretary—

(1) shall conduct an independent, long-term study, utilizing scientifically based research methods and control groups or control conditions—

(A) on the conditions and practices under which educational technology is effective in increasing student academic achievement; and

(B) on the conditions and practices that increase the ability of teachers to integrate technology effectively into curricula and instruction, that enhance the learning environment and opportunities, and that increase student academic achievement, including technology literacy;

(2) shall establish an independent review panel to advise the Secretary on methodological and other issues that arise in conducting the long-term study;

(3) shall consult with other interested Federal departments or agencies, State and local educational practitioners and policymakers (including teachers, principals, and superintendents), and experts in technology, regarding the study; and

(4) shall submit to Congress interim reports, when appropriate, and a final report, to be submitted not later than April 1, 2006, on the findings of the study.

(b) Dissemination

Using funds made available under section 6754(b)(2) of this title, the Secretary shall make widely available, including through dissemination on the Internet and to all State educational agencies and other recipients of funds under this part, findings identified through activities carried out under this section regarding the conditions and practices under which educational technology is effective in increasing student academic achievement.

(c) Technical assistance

Using funds made available under section 6754(b)(2) of this title, the Secretary may provide technical assistance (directly or through the competitive award of grants or contracts) to State educational agencies, local educational agencies, and other recipients of funds, particularly in rural areas, under this part, in order to assist such State educational agencies, local educational agencies, and other recipients to achieve the purposes of this part.

(Pub. L. 89–10, title II, § 2421, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1682.)

§ 6772. National education technology plan

(a) In general

Based on the Nation's progress and an assessment by the Secretary of the continuing and future needs of the Nation's schools in effectively using technology to provide all students the opportunity to meet challenging State academic content and student academic achievement standards, the Secretary shall update and publish, in a form readily accessible to the public, a national long-range technology plan, by not later than 12 months after January 8, 2002.

(b) Contents

The plan referred to in subsection (a) of this section shall include each of the following:

(1) A description of the manner in which the Secretary will promote—

(A) higher student academic achievement through the integration of advanced technologies, including emerging technologies, into curricula and instruction;

(B) increased access to technology for teaching and learning for schools with a high number or percentage of children from families with incomes below the poverty line; and

(C) the use of technology to assist in the implementation of State systemic reform strategies.

(2) A description of joint activities of the Department of Education and other Federal departments or agencies that will promote the use of technology in education.

(Pub. L. 89–10, title II, § 2422, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1682.)

SUBPART 3—READY-TO-LEARN TELEVISION

§ 6775. Ready-to-Learn Television

(a) Program authorized

(1) In general

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities described in paragraph (3) to enable such entities—

(A) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

(B) to facilitate the development, directly or through contracts with producers of children and family educational television programming, of educational programming for preschool and elementary school children, and the accompanying support materials and services that promote the effective use of such programming;

(C) to facilitate the development of programming and digital content containing Ready-to-Learn-based children's programming and resources for parents and caregivers that is specially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet;

(D) to contract with entities (such as public telecommunications entities) so that pro-

grams developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming, and through the use of the most appropriate distribution technologies; and

(E) to develop and disseminate education and training materials, including interactive programs and programs adaptable to distance learning technologies, that are designed—

(i) to promote school readiness; and

(ii) to promote the effective use of materials developed under subparagraphs (B) and (C) among parents, teachers, Head Start providers, Even Start providers, providers of family literacy services, child care providers, early childhood development personnel, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children.

(2) Availability

In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, parents, child care workers, Head Start providers, Even Start providers, and providers of family literacy services to increase the effective use of such programming.

(3) Eligible entities

To be eligible to receive a grant, contract, or cooperative agreements under this section, an entity shall be a public telecommunications entity that is able to demonstrate each of the following:

(A) A capacity for the development and national distribution of educational and instructional television programming of high quality that is accessible by a large majority of disadvantaged preschool and elementary school children.

(B) A capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality.

(C) A capacity, consistent with the entity's mission and nonprofit nature, to negotiate such contracts in a manner that returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

(D) A capacity to localize programming and materials to meet specific State and local needs and to provide educational outreach at the local level.

(4) Coordination of activities

An entity receiving a grant, contract, or cooperative agreement under this section shall consult with the Secretary and the Secretary of Health and Human Services—

(A) to 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) to coordinate activities with Federal programs that have major training components for early childhood development, including programs under the Head Start Act (42 U.S.C. 9831 et seq.) and Even Start, and State training activities funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), regarding the availability and utilization of materials developed under paragraph (1)(E) to enhance parent and child care provider skills in early childhood development and education.

(b) Applications

To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) of this section, an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) Reports and evaluations

(1) Annual report to the Secretary

An entity receiving a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under the grant, contract, or cooperative agreement, including each of the following:

(A) The programming that has been developed, directly or indirectly, by the eligible entity, and the target population of the programs developed.

(B) The support and training materials that have been developed to accompany the programming, and the method by which the materials are distributed to consumers and users of the programming.

(C) 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.

(D) The initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

(2) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report that includes the following:

(A) A summary of the activities assisted under subsection (a) of this section.

(B) A description of the education and training materials made available under subsection (a)(1)(E) of this section, 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 subsection.

(d) Administrative costs

An entity that receives a grant, contract, or cooperative agreement under this section may

use up to 5 percent of the amount received under the grant, contract, or agreement for the normal and customary expenses of administering the grant, contract, or agreement.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002, and for each of the 5 succeeding fiscal years.

(2) Funding rule

Not less than 60 percent of the amount appropriated under paragraph (1) for each fiscal year shall be used to carry out activities under subparagraphs (B) through (D) of subsection (a)(1) of this section.

(Pub. L. 89–10, title II, § 2431, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1683.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(4)(B), is subchapter B (§ 635 et seq.) 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 Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(4)(B), 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, 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.

SUBPART 4—LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS

§ 6777. Internet safety

(a) In general

No funds made available under this part to a local educational agency for an elementary school 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—

(1)(A) 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

(B) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(2)(A) 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

(B) is enforcing the operation of such technology protection measure during any use of such computers.

(b) Timing and applicability of implementation

(1) In general

The local educational agency with responsibility for a school covered by subsection (a) of this section shall certify the compliance of such school with the requirements of subsection (a) of this section as part of the application process for the next program funding year under this chapter following December 21, 2000, and for each subsequent program funding year thereafter.

(2) Process

(A) Schools with Internet safety policies and technology protection measures in place

A local educational agency with responsibility for a school covered by subsection (a) of this section that has in place an Internet safety policy meeting the requirements of subsection (a) of this section shall certify its compliance with subsection (a) of this section during each annual program application cycle under this chapter.

(B) Schools without Internet safety policies and technology protection measures in place

(i) Certification

A local educational agency with responsibility for a school covered by subsection (a) of this section that does not have in place an Internet safety policy meeting the requirements of subsection (a) of this section—

(I) for the first program year after December 21, 2000, 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 December 21, 2000, 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.

(ii) Ineligibility

Any school covered by subsection (a) of this section 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 part for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

(C) Waivers

Any school subject to a certification under subparagraph (B)(i)(II) for which the local

educational agency concerned cannot make the certification otherwise required by that subparagraph may seek a waiver of that subparagraph if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that subparagraph. The local educational agency concerned shall notify the Secretary of the applicability of that subparagraph to the school. Such notice shall certify that the school will be brought into compliance with the requirements in subsection (a) of this section before the start of the third program year after December 21, 2000, in which the school is applying for funds under this part.

(c) Disabling during certain use

An administrator, supervisor, or person authorized by the responsible authority under subsection (a) of this section may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

(d) Noncompliance

(1) Use of General Education Provisions Act remedies

Whenever the Secretary has reason to believe that any recipient of funds under this part is failing to comply substantially with the requirements of this section, the Secretary may—

(A) withhold further payments to the recipient under this part;

(B) issue a complaint to compel compliance of the recipient through a cease and desist order; or

(C) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in[1] 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].

(2) Recovery of funds prohibited

The actions authorized by paragraph (1) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this section, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

(3) 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 paragraph (1)(A) 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 paragraph.

(e) Definitions

In this subpart:

(1) 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.

(2) 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 that has access to the Internet.

(3) Acquisition or operation

An elementary school or secondary school shall be considered to have received funds under this part for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(A) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

(B) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

(4) Minor

The term ''minor'' means an individual who has not attained the age of 17.

(5) Child pornography

The term ''child pornography'' has the meaning given that term in section 2256 of title 18.

(6) Harmful to minors

The term ''harmful to minors'' means any picture, image, graphic image file, or other visual depiction that—

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) 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

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(7) Obscene

The term ''obscene'' has the meaning applicable to that term under section 1460 of title 18.

(8) Sexual act and sexual contact

The terms ''sexual act'' and ''sexual contact'' have the meanings given those terms in section 2246 of title 18.

(f) Severability

If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.

(Pub. L. 89–10, title II, § 2441, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1686.)

SUBCHAPTER III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

CODIFICATION

Title III of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat.

[1] So in original. Probably should be followed by ''the''.

27, amended, and subsequently revised, restated, and amended by other public laws. Title III is shown, herein, as having been added by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

§ 6801. Authorizations of appropriations; condition on effectiveness of parts

(a) Authorizations of appropriations

(1) In general

Subject to subsection (b) of this section, there are authorized to be appropriated to carry out this subchapter, except for subpart 4 of part B, $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) Emergency immigrant education program

There are authorized to be appropriated to carry out subpart 4 of part B of this subchapter (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(b) Conditions on effectiveness of parts A and B

(1) Part A

Part A of this subchapter shall be in effect for any fiscal year for which the amount appropriated under paragraphs (1) and (2) of subsection (a) of this section equals or exceeds $650,000,000.

(2) Part B

Part B of this subchapter shall be in effect only for a fiscal year for which part A of this subchapter is not in effect.

(c) References

In any fiscal year for which part A of this subchapter is in effect, references in Federal law (other than this subchapter) to part B of this subchapter shall be considered to be references to part A of this subchapter. In any fiscal year for which part B of this subchapter is in effect, references in Federal law (other than this subchapter) to part A of this subchapter shall be considered to be references to part B of this subchapter.

(Pub. L. 89–10, title III, § 3001, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.)

PRIOR PROVISIONS

A prior section 6801, Pub. L. 89–10, title III, § 3101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3636, set out Short Title of prior subchapter III as the Technology for Education Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3001 of Pub. L. 89–10 was classified to section 3021 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

§ 6811. Short title

This part may be cited as the ''English Language Acquisition, Language Enhancement, and Academic Achievement Act''.

(Pub. L. 89–10, title III, § 3101, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6811, Pub. L. 89–10, title III, § 3111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3637, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3101 of Pub. L. 89–10 was classified to section 6801 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6812. Purposes

The purposes of this part are—

(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 6311(b)(1) of this title;

(3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring—

(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 6311(b)(2)(B) of this title; and

(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

(Pub. L. 89–10, title III, § 3102, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6812, Pub. L. 89–10, title III, § 3112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3638, set forth purpose of former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6813 to 6815 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6813, 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, defined terms for purposes of prior subchapter III.

Section 6814, Pub. L. 89–10, title III, § 3114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3640, authorized appropriations and set forth funding rule.

Section 6815, Pub. L. 89–10, title III, § 3115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641, limited use of funds for administrative costs and technical assistance.

SUBPART 1—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

§ 6821. Formula grants to States

(a) In general

In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 6823 of this title, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b) of this section. The grant shall consist of the allotment determined for the State educational agency under subsection (c) of this section.

(b) Use of funds

(1) Subgrants to eligible entities

The Secretary may make a grant under subsection (a) of this section only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) of this section for a fiscal year—

(A) to award subgrants, from allocations under section 6824 of this title, to eligible entities to carry out the activities described in section 6825 of this title (other than subsection (e)); and

(B) to award subgrants under section 6824(d)(1) of this title to eligible entities that are described in that section to carry out the activities described in section 6825(e) of this title.

(2) State activities

Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) of this section may reserve not more than 5 percent of the agency's allotment under subsection (c) of this section to carry out one or more of the following activities:

(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(iii) identifying or developing, and implementing, measures of English proficiency; and

(iv) promoting parental and community participation in programs that serve limited English proficient children.

(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 6842 of this title.

(3) Administrative expenses

From the amount reserved under paragraph (2), a State educational agency may use not more than 60 percent of such amount or $175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

(c) Reservations and allotments

(1) Reservations

From the amount appropriated under section 6801(a) of this title for each fiscal year, the Secretary shall reserve—

(A) 0.5 percent or $5,000,000 of such amount, whichever is greater, for payments to eligible entities that are defined under section 6822(a) of this title for activities, approved by the Secretary, consistent with this subpart;

(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart;

(C) 6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title; and

(D) such sums as may be necessary to make continuation awards under paragraph (2).

(2) Continuation awards

(A) In general

Before making allotments to State educational agencies under paragraph (3) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(D) to make continuation awards to recipients who received grants or fellowships for the fiscal year preceding any fiscal year described in section 6801(b)(1)(A) of this title under—

(i) subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002); or

(ii) subparts 1 and 3 of part B of this subchapter.

(B) Use of funds

The Secretary shall make the awards in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

(3) State allotments

(A) In general

Except as provided in subparagraph (B), from the amount appropriated under section 6801(a) of this title for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 6823(c) of this title—

(i) an amount that bears the same relationship to 80 percent of the remainder as the number of limited English proficient children in the State bears to the number of such children in all States; and

(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

(B) Minimum allotments

No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

(C) Reallotment

If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 6825 of this title (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

(ii) shall reallot any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

(D) Special rule for Puerto Rico

The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

(4) Use of data for determinations

(A) In general

In making State allotments under paragraph (3), for the purpose of determining the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such children and youth.

(B) Special rule

(i) First 2 years

In making determinations under subparagraph (A) for the 2 fiscal years following January 8, 2002, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using data available from the Bureau of Census or submitted by the States to the Secretary.

(ii) Subsequent years

For subsequent fiscal years, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using the more accurate of—

(I) the data available from the American Community Survey available from the Department of Commerce; or

(II) the number of children being assessed for English proficiency in a State as required under section 6311(b)(7) of this title.

(Pub. L. 89–10, title III, § 3111, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1691.)

REFERENCES IN TEXT

Subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002), referred to in subsec. (c)(2)(A)(i), means subparts 1 and 3 of part A of title VII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, 3732, which were classified generally to subparts 1 (§ 7421 et seq.) and 3 (§ 7471 et seq.) of part A of subchapter VII of this chapter prior to the general amendment of subchapter VII of this chapter by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.

PRIOR PROVISIONS

A prior section 3111 of Pub. L. 89–10 was classified to section 6811 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6822. 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 elemen-

tary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

(1) An Indian tribe.

(2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

(6) An elementary school or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

(b) Submission of applications for assistance

Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a) of this section, and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

(c) Special rule

An eligible entity described in subsection (a) of this section that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 6824 of this title.

(Pub. L. 89–10, title III, § 3112, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1694.)

PRIOR PROVISIONS

A prior section 3112 of Pub. L. 89–10 was classified to section 6812 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6823. State and specially qualified agency plans

(a) Plan required

Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the process that the agency will use in making subgrants to eligible entities under section 6824(d)(1) of this title;

(2) describe how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the four recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 6311(b)(1) of this title;

(3) contain an assurance that—

(A) in the case of a State educational agency, the agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;

(B) in the case of a specially qualified agency, the agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;

(C) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 6311(b)(7) of this title to annually assess in English children who have been in the United States for 3 or more consecutive years;

(D) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all limited English proficient children participating in a program funded under this subpart, consistent with section 6311(b)(7) of this title;

(E) in awarding subgrants under section 6824 of this title, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

(F) subgrants to eligible entities under section 6824(d)(1) of this title will be of sufficient size and scope to allow such entities to carry out high-quality language instruction educational programs for limited English proficient children; and

(G) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs that assist limited English proficient children in meeting challenging State academic content and student academic achievement standards once assistance under this subpart is no longer available;

(4) describe how the agency will coordinate its programs and activities under this subpart with its other programs and activities under this chapter and other Acts, as appropriate;

(5) describe how the agency will hold local educational agencies, eligible entities, elementary schools, and secondary schools accountable for—

(A) meeting all annual measurable achievement objectives described in section 6842 of this title;

(B) making adequate yearly progress for limited English proficient children, as described in section 6311(b)(2)(B) of this title; and

(C) achieving the purposes of this part; and

(6) describe how eligible entities in the State will be given the flexibility to teach limited English proficient children—

(A) using a language instruction curriculum that is tied to scientifically based research on teaching limited English proficient children and that has been demonstrated to be effective; and

(B) in the manner the eligible entities determine to be the most effective.

(c) Approval

The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) of this section if the plan meets the requirements of this section.

(d) Duration of plan

(1) In general

Each plan submitted by a State educational agency or specially qualified agency and approved under subsection (c) of this section shall—

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

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

(2) Additional information

(A) Amendments

If the State educational agency or specially qualified agency amends the plan, the agency shall submit such amendment to the Secretary.

(B) Approval

The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this part.

(e) Consolidated plan

A plan submitted under subsection (a) of this section may be submitted as part of a consolidated plan under section 7842 of this title.

(f) Secretary assistance

The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards, objectives, and assessments.

(Pub. L. 89–10, title III, § 3113, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1694.)

PRIOR PROVISIONS

A prior section 3113 of Pub. L. 89–10 was classified to section 6813 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6824. Within-State allocations

(a) In general

After making the reservation required under subsection (d)(1) of this section, each State educational agency receiving a grant under section 6821(c)(3) of this title shall award subgrants for a fiscal year by allocating to each eligible entity in the State having a plan approved under section 6826 of this title an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of limited English proficient children in schools served by the eligible entity bears to the population of limited English proficient children in schools served by all eligible entities in the State.

(b) Limitation

A State educational agency shall not award a subgrant from an allocation made under subsection (a) of this section if the amount of such subgrant would be less than $10,000.

(c) Reallocation

Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) of this section for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

(d) Required reservation

A State educational agency receiving a grant under this subpart for a fiscal year—

(1) shall reserve not more than 15 percent of the agency's allotment under section 6821(c)(3) of this title to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

(2) in awarding subgrants under paragraph (1)—

(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

(B) shall consider the quality of each local plan under section 6826 of this title and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part.

(Pub. L. 89–10, title III, § 3114, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1696.)

PRIOR PROVISIONS

A prior section 3114 of Pub. L. 89–10 was classified to section 6814 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6825. Subgrants to eligible entities

(a) Purposes of subgrants

A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards. In

carrying out activities with such funds, the entity shall use approaches and methodologies based on scientifically based research on teaching limited English proficient children and immigrant children and youth for the following purposes:

(1) Developing and implementing new language instruction educational programs and academic content instruction programs for such children, and such children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

(2) Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instruction programs for such children, and such children and youth.

(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

(b) Administrative expenses

Each eligible entity receiving funds under section 6824(a) of this title for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

(c) Required subgrantee activities

An eligible entity receiving funds under section 6824(a) of this title shall use the funds—

(1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing—

(A) English proficiency; and

(B) student academic achievement in the core academic subjects; and

(2) to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

(A) designed to improve the instruction and assessment of limited English proficient children;

(B) designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children;

(C) based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

(d) Authorized subgrantee activities

Subject to subsection (c) of this section, an eligible entity receiving funds under section 6824(a) of this title may use the funds to achieve one of the purposes described in subsection (a) of this section by undertaking one or more of the following activities:

(1) Upgrading program objectives and effective instruction strategies.

(2) Improving the instruction program for limited English proficient children by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

(3) Providing—

(A) tutorials and academic or vocational education for limited English proficient children; and

(B) intensified instruction.

(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

(5) Improving the English proficiency and academic achievement of limited English proficient children.

(6) Providing community participation programs, family literacy services, and parent outreach and training activities to limited English proficient children and their families—

(A) to improve the English language skills of limited English proficient children; and

(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

(7) Improving the instruction of limited English proficient children by providing for—

(A) the acquisition or development of educational technology or instructional materials;

(B) access to, and participation in, electronic networks for materials, training, and communication; and

(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this subpart.

(8) Carrying out other activities that are consistent with the purposes of this section.

(e) Activities by agencies experiencing substantial increases in immigrant children and youth

(1) In general

An eligible entity receiving funds under section 6824(d)(1) of this title shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

(2) Duration of subgrants

The duration of a subgrant made by a State educational agency under section 6824(d)(1) of this title shall be determined by the agency in its discretion.

(f) Selection of method of instruction

(1) In general

To receive a subgrant from a State educational agency under this subpart, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist limited English proficient children to attain English proficiency and meet challenging State academic content and student academic achievement standards.

(2) Consistency

Such selection shall be consistent with sections 6845 through 6847 of this title.

(g) Supplement, not supplant

Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

(Pub. L. 89–10, title III, § 3115, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1697.)

PRIOR PROVISIONS

A prior section 3115 of Pub. L. 89–10 was classified to section 6815 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6826. Local plans

(a) Plan required

Each eligible entity desiring a subgrant from the State educational agency under section 6824 of this title shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the programs and activities proposed to be developed, implemented, and administered under the subgrant;

(2) describe how the eligible entity will use the subgrant funds to meet all annual measurable achievement objectives described in section 6842 of this title;

(3) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this subpart accountable for—

(A) meeting the annual measurable achievement objectives described in section 6842 of this title;

(B) making adequate yearly progress for limited English proficient children, as described in section 6311(b)(2)(B) of this title; and

(C) annually measuring the English proficiency of limited English proficient children, so that such children served by the programs carried out under this part develop proficiency in English while meeting State academic content and student academic achievement standards as required by section 6311(b)(1) of this title;

(4) describe how the eligible entity will promote parental and community participation in programs for limited English proficient children;

(5) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing such plan; and

(6) describe how language instruction educational programs carried out under the subgrant will ensure that limited English proficient children being served by the programs develop English proficiency.

(c) Teacher English fluency

Each eligible entity receiving a subgrant under section 6824 of this title shall include in

its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

(d) Other requirements for approval

Each local plan shall also contain assurances that—

(1) each local educational agency that is included in the eligible entity is complying with section 7012 of this title prior to, and throughout, each school year;

(2) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part;

(3) the eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children;

(4) the eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards; and

(5) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 6846 and 6847 of this title.

(Pub. L. 89–10, title III, § 3116, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1700.)

PRIOR PROVISIONS

Prior sections 6831 to 6833 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6831, Pub. L. 89–10, title III, § 3121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641, related to national long-range technology plan. See section 6772 of this title.

Section 6832, Pub. L. 89–10, title III, § 3122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3642, related to Federal leadership in promoting the use of technology in education.

Section 6833, Pub. L. 89–10, title III, § 3123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644, related to study, evaluation and report of funding alternatives.

SUBPART 2—ACCOUNTABILITY AND ADMINISTRATION

§ 6841. Evaluations

(a) In general

Each eligible entity that receives a subgrant from a State educational agency under subpart 1 of this part shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the agency, that includes—

(1) a description of the programs and activities conducted by the entity with funds received under subpart 1 of this part during the two immediately preceding fiscal years;

(2) a description of the progress made by children in learning the English language and meeting challenging State academic content and student academic achievement standards;

(3) the number and percentage of children in the programs and activities attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

(4) a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

(b) Use of evaluation

An evaluation provided by an eligible entity under subsection (a) of this section shall be used by the entity and the State educational agency—

(1) for improvement of programs and activities;

(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with subsection (d) of this section) and meet challenging State academic content and student academic achievement standards; and

(3) in determining whether or not to continue funding for specific programs or activities.

(c) Evaluation components

An evaluation provided by an eligible entity under subsection (a) of this section shall—

(1) provide an evaluation of children enrolled in a program or activity conducted by the entity using funds under subpart 1 of this part (including the percentage of children) who—

(A) are making progress in attaining English proficiency, including the percentage of children who have achieved English proficiency;

(B) have transitioned into classrooms not tailored to limited English proficient children, and have a sufficient level of English proficiency to permit them to achieve in English and transition into classrooms not tailored to limited English proficient children;

(C) are meeting the same challenging State academic content and student academic achievement standards as all children are expected to meet; and

(D) are not receiving waivers for the reading or language arts assessments under section 6311(b)(3)(C) of this title; and

(2) include such other information as the State educational agency may require.

(d) Evaluation measures

A State shall approve evaluation measures for use under subsection (c) of this section that are designed to assess—

(1) the progress of children in attaining English proficiency, including a child's level of comprehension, speaking, listening, reading, and writing skills in English;

(2) student attainment of challenging State student academic achievement standards on assessments described in section 6311(b)(3) of this title; and

(3) progress in meeting the annual measurable achievement objectives described in section 6842 of this title.

(e) Special rule for specially qualified agencies

Each specially qualified agency receiving a grant under this part shall provide the evaluations described in subsection (a) of this section to the Secretary subject to the same requirements as apply to eligible entities providing such evaluations to State educational agencies under such subsection.

(Pub. L. 89–10, title III, § 3121, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1701.)

PRIOR PROVISIONS

A prior section 6841, Pub. L. 89–10, title III, § 3131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644, related to allotment and reallotment of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6761 of this title.

A prior section 3121 of Pub. L. 89–10 was classified to section 6831 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6842. Achievement objectives and accountability

(a) Achievement objectives

(1) In general

Each State educational agency or specially qualified agency receiving a grant under subpart 1 of this part shall develop annual measurable achievement objectives for limited English proficient children served under this part that relate to such children's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards as required by section 6311(b)(1) of this title.

(2) Development of objectives

Such annual measurable achievement objectives shall be developed in a manner that—

(A) reflects the amount of time an individual child has been enrolled in a language instruction educational program; and

(B) uses consistent methods and measurements to reflect the increases described in subparagraphs (A)(i), (A)(ii), and (B) of paragraph (3).

(3) Contents

Such annual measurable achievement objectives—

(A) shall include—

(i) at a minimum, annual increases in the number or percentage of children making progress in learning English;

(ii) at a minimum, annual increases in the number or percentage of children attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with section 6311(b)(7) of this title; and

(iii) making adequate yearly progress for limited English proficient children as described in section 6311(b)(2)(B) of this title; and

(B) at the discretion of the agency, may include the number or percentage of children not receiving waivers for reading or language arts assessments under section 6311(b)(3)(C) of this title, but this achievement objective shall not be applied to an eligible entity that, in a given school year—

(i) has experienced a large increase in limited English proficient children or immigrant children and youth;

(ii) enrolls a statistically significant number of immigrant children and youth from countries where such children and youth had little or no access to formal education; or

(iii) has a statistically significant number of immigrant children and youth who have fled from war or natural disaster.

(b) Accountability

(1) For States

Each State educational agency receiving a grant under subpart 1 of this part shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a) of this section, including making adequate yearly progress for limited English proficient children.

(2) Improvement plan

If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a) of this section, that an eligible entity has failed to make progress toward meeting such objectives for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.

(3) Technical assistance

During the development of the improvement plan described in paragraph (2), and throughout its implementation, the State educational agency shall—

(A) provide technical assistance to the eligible entity;

(B) provide technical assistance, if applicable, to schools served by such entity under subpart 1 of this part that need assistance to enable the schools to meet the annual measurable achievement objectives described in subsection (a) of this section;

(C) develop, in consultation with the entity, professional development strategies and activities, based on scientifically based research, that the agency will use to meet such objectives;

(D) require such entity to utilize such strategies and activities; and

(E) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically based research, to improve the specific program or method of instruction provided to limited English proficient children.

(4) Accountability

If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) of this section for 4 consecutive years, the agency shall—

(A) require such entity to modify the entity's curriculum, program, and method of instruction; or

(B)(i) make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and

(ii) require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

(c) Special rule for specially qualified agencies

The Secretary shall hold specially qualified agencies receiving a grant under this subpart accountable for meeting the annual measurable achievement objectives described in subsection (a) of this section in the same manner as State educational agencies hold eligible entities accountable under subsection (b) of this section.

(Pub. L. 89–10, title III, § 3122, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1702.)

PRIOR PROVISIONS

A prior section 6842, Pub. L. 89–10, title III, § 3132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3645, related to school technology resource grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3122 of Pub. L. 89–10 was classified to section 6832 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6843. Reporting requirements

(a) States

Based upon the evaluations provided to a State educational agency under section 6841 of this title, each such agency that receives a grant under this part shall prepare and submit every second year to the Secretary a report on programs and activities carried out by the State educational agency under this part and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

(b) Secretary

Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach limited English proficient children;

(3) containing a critical synthesis of data reported by eligible entities to States under section 6841(a) of this title;

(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 6821(b)(2)(C) of this title;

(5) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(6) containing the major findings of scientifically based research carried out under this part;

(7) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

(8) containing the number of limited English proficient children served by eligible entities receiving funding under this part who were transitioned out of language instruction educational programs funded under this part into classrooms where instruction is not tailored for limited English proficient children; and

(9) containing other information gathered from the evaluations from specially qualified agencies and other reports submitted to the Secretary under this subchapter when applicable.

(Pub. L. 89–10, title III, § 3123, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1704.)

PRIOR PROVISIONS

A prior section 6843, Pub. L. 89–10, title III, § 3133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646, related to State applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6763 of this title.

A prior section 3123 of Pub. L. 89–10 was classified to section 6833 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6844. Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and limited English proficient children that are administered by the Department and other agencies.

(Pub. L. 89–10, title III, § 3124, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6844, Pub. L. 89–10, title III, § 3134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646, related to local uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6766 of this title.

§ 6845. Rules of construction

Nothing in this part shall be construed—

(1) to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate;

(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

(3) to limit the preservation or use of Native American languages.

(Pub. L. 89–10, title III, § 3125, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6845, Pub. L. 89–10, title III, § 3135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3647, related to local applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6764 of this title.

§ 6846. Legal authority under State law

Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

(Pub. L. 89–10, title III, § 3126, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6846, Pub. L. 89–10, title III, § 3136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648, related to national challenge grants for technology in education, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6847. Civil rights

Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

(Pub. L. 89–10, title III, § 3127, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6847, Pub. L. 89–10, title III, § 3137, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, related to Federal administration of programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6848. Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

(Pub. L. 89–10, title III, § 3128, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

§ 6849. Prohibition

In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient children.

(Pub. L. 89–10, title III, § 3129, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

SUBPART 3—NATIONAL ACTIVITIES

§ 6861. National professional development project

The Secretary shall use funds made available under section 6821(c)(1)(C) of this title to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient children and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve limited English proficient children. Grants awarded under this subsection may be used—

(1) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

(2) for the development of curricula appropriate to the needs of the consortia participants involved; and

(3) in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve limited English proficient children.

(Pub. L. 89–10, title III, § 3131, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6861, Pub. L. 89–10, title III, § 3141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, related to regional technical support and professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3131 of Pub. L. 89–10 was classified to section 6841 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 4—DEFINITIONS

§ 6871. Eligible entity

In this part, 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 organization, or State educational agency.

(Pub. L. 89–10, title III, § 3141, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6871, Pub. L. 89–10, title III, § 3151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3652, related to educational technology product development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3141 of Pub. L. 89–10 was classified to section 6861 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS

§ 6891. Short title

This part may be cited as the ''Improving Language Instruction Educational Programs For Academic Achievement Act''.

(Pub. L. 89–10, title III, § 3201, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6891, Pub. L. 89–10, title III, § 3201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, set out short title of the Star Schools Act, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255 of this title.

§ 6892. Purpose

The purpose of this part is to help ensure that limited English proficient children master English and meet the same rigorous standards for academic achievement as all children are expected to meet, including meeting challenging State academic content and student academic achievement standards by—

(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient children;

(2) developing language skills and multicultural understanding;

(3) developing the English proficiency of limited English proficient children and, to the extent possible, the native language skills of such children;

(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, and technical assistance that are focused on school improvement for limited English proficient children; and

(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient children.

(Pub. L. 89–10, title III, § 3202, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6892, Pub. L. 89–10, title III, § 3202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, set forth findings relating to the Star Schools Program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6893. Native American children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including 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 school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

(b) Application

Notwithstanding any other provision of this part, each tribe, authority, organization, or school 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 program proposed in the application.

(Pub. L. 89–10, title III, § 3203, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6893, Pub. L. 89–10, title III, § 3203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655, set forth purpose of the Star Schools Program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255a of this title.

§ 6894. Residents of the territories and freely associated states

For the purpose of carrying out programs under this part in the outlying areas, the term ''local educational agency'' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

(Pub. L. 89–10, title III, § 3204, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6894, Pub. L. 89–10, title III, § 3204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655, authorized grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255b of this title.

Prior sections 6895 to 6900 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6895, Pub. L. 89–10, title III, § 3205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3656, related to eligible entities.

Section 6896, Pub. L. 89–10, title III, § 3206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3657, related to applications for grants. See section 7255c of this title.

Section 6897, Pub. L. 89–10, title III, § 3207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3660, related to leadership and evaluation activities.

Section 6898, Pub. L. 89–10, title III, § 3208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, defined terms. See section 7255f of this title.

Section 6899, Pub. L. 89–10, title III, § 3209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, set forth administrative provisions. See section 7255e of this title.

Section 6900, Pub. L. 89–10, title III, § 3210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, related to other assistance. See section 7255d of this title.

SUBPART 1—PROGRAM DEVELOPMENT AND ENHANCEMENT

§ 6911. Financial assistance for language instruction educational programs

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 6912 and 6913 of this title—

(1) to develop and enhance their capacity to provide high-quality instruction through language instruction educational programs or special alternative instruction programs to limited English proficient children; and

(2) to help such children—

(A) develop English proficiency and, to the extent possible, proficiency in their native language; and

(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet under section 6311(b)(1) of this title.

(Pub. L. 89–10, title III, § 3211, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

§ 6912. Program enhancement activities

(a) Program authorized

(1) Authority

(A) In general

The Secretary is authorized to award grants to eligible entities having applications approved under section 6914 of this title to enable such entities to provide innovative, locally designed, high-quality instruction to limited English proficient children, by expanding, developing, or strengthening language instruction educational programs or special alternative instruction programs.

(B) Period

Each grant awarded under this section shall be awarded for a period of 3 years.

(2) Authorized activities

(A) Mandatory activities

Grants awarded under this section shall be used for—

(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children, that are—

(I) aligned with State and local academic content and student academic achievement standards, and local school reform efforts; and

(II) coordinated with related academic services for children;

(ii) providing high-quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient children; and

(iii) annually assessing the English proficiency of all limited English proficient children served by activities carried out under this section.

(B) Permissible activities

Grants awarded under this section may be used for—

(i) implementing programs to upgrade the reading and other academic skills of limited English proficient children;

(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient children;

(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(iv) improving the instruction programs for limited English proficient children by identifying, acquiring, and applying effective curricula, instruction materials (including materials provided through technology), and assessments that are all aligned with State and local standards;

(v) providing intensified instruction, including tutorials and academic, or vocational and technical, training, for limited English proficient children;

(vi) adapting best practice models for meeting the needs of limited English proficient children;

(vii) assisting limited English proficient children with disabilities;

(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary language instruction educational programs;

(ix) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

(x) participating in electronic networks for materials, training, and communication, and incorporating information derived from such participation in curricula and programs; and

(xi) carrying out such other activities related to the purpose of this part as the Secretary may approve.

(b) Priority

In awarding grants under this section, the Secretary may give priority to an entity that—

(1) serves a school district—

(A) that has a total district enrollment that is less than 10,000 students; or

(B) with a large percentage or number of limited English proficient children; and

(2) has limited or no experience in serving limited English proficient children.

(c) Eligible entity

In 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 State educational agency; or

(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instruction programs that supplement the educational services provided by a local educational agency.

(Pub. L. 89–10, title III, § 3212, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1708.)

§ 6913. Comprehensive school and systemwide improvement activities

(a) Program authorized

(1) Authority

The Secretary is authorized to award grants to eligible entities having applications approved under section 6914 of this title to enable such entities to develop and implement language instruction educational programs, and improve, reform, or upgrade programs or operations that serve significant percentages or numbers of limited English proficient children.

(2) Mandatory activities

Grants awarded under this section shall be used for—

(A) improving instruction programs for limited English proficient children by acquiring and upgrading curricula and related instruction materials;

(B) aligning the activities carried out under this section with State and local school reform efforts;

(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient children;

(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.] (where applicable), and subchapter II of this chapter (where applicable), to recruit teachers trained to serve limited English proficient children;

(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents of limited English proficient children to become active participants in the education of their children;

(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this subchapter;

(G) providing services to meet the full range of the educational needs of limited English proficient children;

(H) annually assessing the English proficiency of all limited English proficient children served by the activities carried out under this section; and

(I) developing or improving accountability systems to monitor the academic progress of limited English proficient children.

(3) Permissible activities

Grants awarded under this section may be used for—

(A) implementing programs to upgrade reading and other academic skills of limited English proficient children;

(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient children;

(C) implementing scientifically based research programs to meet the needs of limited English proficient children;

(D) providing tutorials and academic, or vocational and technical, training for limited English proficient children;

(E) developing and implementing State and local academic content and student academic achievement standards for learning English as a second language, as well as for learning other languages;

(F) developing and implementing programs for limited English proficient children to meet the needs of changing populations of such children;

(G) implementing policies to ensure that limited English proficient children have access to other education programs (other than programs designed to address limited English proficiency);

(H) assisting limited English proficient children with disabilities;

(I) developing and implementing programs to help children become proficient in English and other languages;

(J) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

(K) participating in electronic networks for materials, training, and communication and incorporating information derived from such participation in curricula and programs; and

(L) carrying out such other activities related to the purpose of this part as the Secretary may approve.

(4) Special rule

(A) Planning

A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 45 days.

(B) Commencement of activities

The recipient shall commence carrying out activities under this section not later than the later of—

(i) the beginning of the first school year that begins after the grant is received; or

(ii) 30 days after the date of receipt of the grant.

(b) Availability of appropriations

(1) Reservation of funds for continued payments

(A) Covered grant

In this paragraph, the term ''covered grant'' means a grant—

(i) that was awarded under sections 7112, 7113, 7114, or 7115 (as such sections were in effect on the day before January 8, 2002); and

(ii) for which the grant period has not ended.

(B) Reservation

For any fiscal year that is part of the grant period of a covered grant, the Sec-

retary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 6801(a) of this title and made available for carrying out this section.

(C) Payments

The Secretary shall continue to make grant payments to each entity that received a covered grant, in accordance with the terms of that grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

(2) Availability

Of the amount appropriated for a fiscal year under section 6801(a) of this title that is made available to carry out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

(A) not less than one-third of the remainder shall be used to award grants to eligible entities for activities carried out within an entire school district; and

(B) not less than two-thirds of the remainder shall be used to award grants to eligible entities for activities carried out within individual schools.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to an applicant that—

(1) experiences a significant increase in the number or percentage of limited English proficient children enrolled in the applicant's programs and has limited or no experience in serving limited English proficient children;

(2) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

(3) demonstrates that the applicant has a proven track record of success in helping limited English proficient children learn English and meet high academic standards; or

(4) serves a school district with a large number or percentage of limited English proficient children.

(d) Eligible entities

In 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 organization, or State educational agency.

(Pub. L. 89–10, title III, § 3213, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1709.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(2)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 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.

Sections 7112, 7113, 7114, and 7115 (as such sections were in effect on the day before January 8, 2002), referred to in subsec. (b)(1)(A)(i), means sections 7112, 7113, 7114, and 7115 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719–3722, which were classified to sections 7422, 7423, 7424, and 7425 of this title, respectively, prior to the general amendment of title VII of this chapter by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.

§ 6914. Applications

(a) In general

(1) Secretary

To receive a grant under this subpart, an eligible entity described in section 6912 or 6913 of this title 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

The eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity 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 submit the written comments of the agency regarding the application to the Secretary.

(2) Comments

(A) Submission of comments

Regarding applications 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) Subject

For purposes of this subpart, such comments shall address—

(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient children served under the grant; and

(ii) how the grant application is consistent with the State plan required 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 State educational agencies.

(e) Waiver

Notwithstanding subsection (b) of this section, the Secretary is authorized to waive the review requirement specified in 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 program author-

ized in section 6934 of this title, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this subpart.

(f) Required documentation

Such application shall include documentation that—

(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

(2) the leadership personnel of each school participating in the program have been involved in the development and planning of the program in the school.

(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—

(i) data on the number of limited English proficient children in the school or school district to be served;

(ii) information on the characteristics of the children, including—

(I) the native languages of the children;

(II) the proficiency of the children in English and their native language;

(III) achievement data (current as of the date of submission of the application) for the limited English proficient children in—

(aa) reading or language arts (in English and in the native language, if applicable); and

(bb) mathematics;

(IV) a comparison of that data for the children with that data for the English proficient peers of the children; and

(V) the previous schooling experiences of the children;

(iii) the professional development needs of the instruction personnel who will provide services for the limited English proficient children under the proposed program; and

(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient children.

(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 limited English proficient children to be served;

(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient children;

(iii) will ensure that the program is coordinated with other programs under this chapter and other Acts;

(iv) involves the parents of the limited English proficient children to be served;

(v) ensures accountability in achieving high academic standards; and

(vi) promotes coordination of services for the limited English proficient children 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 educational agencies 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 language instruction educational programs 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 who, individually or in combination, are proficient in—

(i) English, with respect to written, as well as oral, communication skills; and

(ii) the native language of the majority of the children who the teachers teach, if instruction in the program is in the native language as well as English.

(F) A budget for the grant funds.

(2) Additional information

Each application for a grant under section 6913 of this title shall—

(A) describe—

(i) current services (as of the date of submission of the application) the applicant provides to limited English proficient children;

(ii) what services limited English proficient children will receive under the grant that such children 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 limited English proficient children;

(iv) specific achievement and school retention goals for the children to be served by the proposed program and how progress toward achieving such goals will be measured; and

(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

(B) provide assurances that—

(i) the program funded with the grant will be integrated with the overall educational program of the children served through the proposed program; and

(ii) the application has been developed in consultation with parents and other representatives of the children to be served in such program.

(h) Approval of applications

An application for a grant under this subpart may be approved only if the Secretary determines that—

(1) the program proposed in the application will use qualified personnel, including person-

nel who are proficient in the language or languages used for instruction;

(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

(B) in a manner 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 the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

(3)(A) student evaluation and assessment procedures in the program are valid and reliable for limited English proficient children; and

(B) limited English proficient children with disabilities will be identified and served through the program 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 program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be 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 made available under this subpart—

(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

(B) 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 to such children;

(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to promise significant improvement in the education of limited English proficient children; and

(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

(i) Consideration

In determining whether to approve an application under this subpart, the Secretary shall give consideration to—

(1) 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 educational agency and State educational agency, or businesses; and

(2) whether the application provides for training for personnel participating in, or preparing to participate in, a program that will assist such personnel in meeting State and local certification requirements.

(Pub. L. 89–10, title III, § 3214, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1712.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (h)(3)(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 Civil Rights Act of 1964, referred to in subsec. (h)(4)(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.

§ 6915. 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 language instruction educational programs and special alternative instruction programs to limited English proficient children after Federal assistance is reduced or eliminated.

(Pub. L. 89–10, title III, § 3215, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

§ 6916. Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

(Pub. L. 89–10, title III, § 3216, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

§ 6917. Evaluations

(a) Evaluation

Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the evaluation, in the form prescribed by the Secretary.

(b) Use of evaluation

Such evaluation shall be used by the grant recipient—

(1) for program improvement;

(2) to further define the program's goals and objectives; and

(3) to determine program effectiveness.

(c) Evaluation report components

In preparing the evaluation reports, the recipient shall—

(1) use the data provided in the application submitted by the recipient under section 6914 of this title as baseline data against which to report academic achievement and gains in English proficiency for children in the program;

(2) disaggregate the results of the evaluation by gender, native languages spoken by children, socioeconomic status, and whether the children have disabilities;

(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which children served by the program are meeting the challenging State academic content and student academic achievement standards, and including data comparing limited English proficient children with English proficient children with regard to school retention and academic achievement concerning—

(A) reading and language arts;

(B) English proficiency;

(C) mathematics; and

(D) the native language of the children, if the program develops native language proficiency;

(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student academic achievement;

lude[1] a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children; and

(6) include such other information as the Secretary may require.

(Pub. L. 89–10, title III, § 3217, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

§ 6918. Construction

Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title III, § 3218, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717.)

PRIOR PROVISIONS

Prior sections 6921 to 6928, which comprised former part C of this subchapter, were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6921, Pub. L. 89–10, title III, § 3301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663, related to Ready-to-Learn television. See section 6775 of this title.

Section 6922, Pub. L. 89–10, title III, § 3302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663, related to educational programming.

Section 6923, Pub. L. 89–10, title III, § 3303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3664, set forth duties of Secretary.

Section 6924, Pub. L. 89–10, title III, § 3304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to applications.

Section 6925, Pub. L. 89–10, title III, § 3305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to reports and evaluation of program activities.

Section 6926, Pub. L. 89–10, title III, § 3306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to administrative costs.

Section 6927, Pub. L. 89–10, title III, § 3307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, defined ''distance learning''.

Section 6928, Pub. L. 89–10, title III, § 3308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

SUBPART 2—RESEARCH, EVALUATION, AND DISSEMINATION

§ 6931. 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 language instruction educational programs and special alternative instruction programs for limited English proficient children.

(b) Competitive awards

Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts, and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, 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 English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

(Pub. L. 89–10, title III, § 3221, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717.)

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 [sic], 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 [sic] and those carried out under other programs for persons of limited English proficiency;

[1] So in original. Probably should be ''(5) include''.

''(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.''

§ 6932. Research

(a) Administration

The Secretary shall conduct research activities authorized by this subpart through the Institute of Education Sciences in coordination and collaboration with the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

(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 children and their families;

(2) may include research on effective instruction practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child in the teacher's or staff member's classroom;

(3) may include establishing (through the National Center for Education Statistics in consultation with experts in second language acquisition and scientifically based research on teaching limited English proficient children) a common definition of ''limited English proficient child'' for purposes of national data collection; and

(4) shall be administered by individuals with expertise in second language acquisition, scientifically based research on teaching limited English proficient children, and the needs of limited English proficient children 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 recipients of grants under subpart 1 of this part or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of limited English proficient children or teachers who serve such children, monitoring the education of such children from entry into language instruction educational programs through secondary school completion.

(2) Applications

An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 of this part or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded two or more of such grants.

(d) Consultation

The Secretary shall consult with agencies, organizations, and individuals that are engaged in research and practice on the education of limited English proficient children, language instruction educational programs, or related research, to identify areas of study and activities to be funded under this section.

(e) Data collection

The Secretary shall provide for the collection of data on limited English proficient children as part of the data systems operated by the Department.

(Pub. L. 89–10, title III, § 3222, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717; amended Pub. L. 107–279, title IV, § 404(d)(5)(A), Nov. 5, 2002, 116 Stat. 1986.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

RESEARCH RELATING TO BILINGUAL EDUCATION

Pub. L. 100–297, title VI, § 6211, Apr. 28, 1988, 102 Stat. 429, 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 higher 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 [now Committee on Health, Education, Labor, and Pensions] 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.''

§ 6933. Academic excellence awards

(a) Authority

The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

(1) demonstrated significant progress in assisting limited English proficient children to learn English according to age appropriate and developmentally appropriate standards; and

(2) demonstrated significant progress in assisting limited English proficient children to meet, according to age appropriate and developmentally appropriate standards, the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(b) Applications

A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 6934(e) of this title.

(Pub. L. 89–10, title III, § 3223, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1718.)

§ 6934. 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 programs and other Federal education programs, effectively provides for the education of limited English proficient children 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 and entities 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—

(A) to assist local educational agencies in the State with activities that—

(i) consist of program design, capacity building, assessment of student academic achievement, program evaluation, and development of data collection and accountability systems for limited English proficient children; and

(ii) are aligned with State reform efforts; and

(B) to collect data on the State's limited English proficient populations and document the services available to all such populations.

(2) 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.

(3) 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 subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children to ensure that such funds are used in a manner consistent with the requirements of this subpart.

(e) Applications

A State educational agency desiring to receive funds under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(f) Supplement, not supplant

Federal 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 the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

(g) Report to the Secretary

A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

(Pub. L. 89–10, title III, § 3224, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1719.)

§ 6935. Instruction materials development

(a) In general

The Secretary may make grants for the development, publication, and dissemination of high-quality instruction materials—

(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instruction materials are not readily available; and

(2) in other low-incidence languages in the United States for which instruction materials are not readily available.

(b) Priority

In making the grants, the Secretary shall give priority to applicants for the grants who propose—

(1) to develop instruction materials in languages indigenous to the United States or the outlying areas; and

(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 of this part and this subpart, that are consistent with challenging State academic content and student academic achievement standards.

(Pub. L. 89–10, title III, § 3225, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1720.)

SUBPART 3—PROFESSIONAL DEVELOPMENT

§ 6951. Professional development grants

(a) Purpose

The purpose of this section is to provide assistance to prepare educators to improve educational services for limited English proficient children by—

(1) supporting professional development programs and activities to prepare teachers, pupil service personnel, administrators, and other educational personnel working in language instruction educational programs to provide effective services to limited English proficient children;

(2) incorporating curricula and resources concerning appropriate and effective instruction and assessment methodologies specific to limited English proficient children into preservice and inservice professional development programs;

(3) upgrading the qualifications and skills of non-certified educational personnel, including paraprofessionals, to enable such personnel to meet high professional standards for educating limited English proficient children;

(4) improving the quality of professional development programs in schools or departments of education at institutions of higher education, for educational personnel serving, or preparing to serve, limited English proficient children; and

(5) supporting the recruitment and training of prospective educational personnel to serve limited English proficient children by providing fellowships for undergraduate, graduate, doctoral, and post-doctoral study related to the instruction of such children.

(b) Authorization

(1) In general

The Secretary is authorized to award grants under this section to—

(A) State educational agencies;

(B) local educational agencies;

(C) institutions of higher education; or

(D) consortia of one or more local educational agencies, State educational agencies, institutions of higher education, for-profit organizations, or nonprofit organizations.

(2) Duration

Each grant awarded under this section shall be awarded for a period of not more than 4 years.

(c) Authorized activities

Grants awarded under this section shall be used to conduct high-quality professional development programs and effective activities to improve the quality of instruction and services provided to limited English proficient children, including—

(1) implementing preservice and inservice professional development programs for teachers who serve limited English proficient children, administrators, and other educational personnel who are preparing to provide educational services for limited English proficient children, including professional development programs that assist limited English proficient children to attain English proficiency;

(2) implementing school-based collaborative efforts among teachers to improve instruction in core academic subjects, especially reading, for limited English proficient children;

(3) developing and implementing programs to assist beginning teachers who serve limited English proficient children with transitioning to the teaching profession, including programs that provide mentoring and team teaching with trained and experienced teachers;

(4) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

(5) developing curricular materials and assessments for teachers that are appropriate to the needs of limited English proficient children, and that are aligned with challenging State academic content and student academic achievement standards, including materials and assessments that ensure limited English proficient children attain English proficiency;

(6) integrating and coordinating activities with entities carrying out other programs consistent with the purpose of this section and supported under this chapter, or other Acts as appropriate;

(7) developing and implementing career ladder programs to upgrade the qualifications and skills of non-certified educational personnel working in, or preparing to work in, language instruction educational programs to enable such personnel to meet high professional standards, including standards for certification and licensure as teachers;

(8) developing and implementing activities to help recruit and train secondary school students as teachers who serve limited English proficient children;

(9) providing fellowships and assistance for costs related to enrollment in a course of study at an institution of higher education that addresses the instruction of limited English proficient children in such areas as teacher training, program administration, research, evaluation, and curriculum development, and for the support of dissertation research related to such study, except that any person receiving such a fellowship or assistance shall agree to—

(A) work in an activity related to improving the educational services for limited English proficient children authorized under this subpart, including work as a teacher that serves limited English proficient children, for a period of time equivalent to the period of time during which such person receives assistance under this paragraph; or

(B) repay such assistance; and

(10) carrying out such other activities as are consistent with the purpose of this section.

(d) 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 form, and containing such information as the Secretary may require.

(2) Contents

Each application shall—

(A) describe the programs and activities proposed to be developed, implemented, and administered under the award;

(B) describe how the applicant has consulted with, and assessed the needs of, public and private schools serving limited English proficient children to determine such schools' need for, and the design of, the program for which funds are sought; and

(C) describe how the programs and activities to be carried out under the award will be used to ensure that limited English proficient children meet challenging State academic content and student academic achievement standards and attain English proficiency.

(3) Special rule

An eligible entity that proposes to conduct a master's-level or doctoral-level program with funds received under this section shall include in the entity's application an assurance that such program will include a training practicum in a local elementary school or secondary school program serving limited English proficient children.

(4) 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 programs and activities under this section.

(5) Distribution rule

In making awards under this section, the Secretary shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in carrying out the programs and activities authorized under this section and that are otherwise qualified.

(e) Priorities in awarding grants

(1) Grants to agencies

In awarding grants to State educational agencies and local educational agencies under this section, the Secretary shall give priority to agencies that propose programs and activities designed to implement professional development programs for teachers and educational personnel who are providing or preparing to provide educational services for limited English proficient children, including services provided through language instruction educational programs, that ensure such children attain English proficiency and meet challenging State academic content and student academic achievement standards.

(2) Grants to institutions of higher education

In awarding grants to institutions of higher education under this section, the Secretary shall give priority to institutions that propose programs and activities to recruit and upgrade the qualifications and skills of certified and non-certified educational personnel by offering degree programs that prepare beginning teachers to serve limited English proficient children.

(f) Program evaluations

Each recipient of an award under this section for a program or activity shall annually conduct an independent evaluation of the program or activity and submit to the Secretary a report containing such evaluation. Such report shall include information on—

(1) the program or activity conducted by the recipient to provide high-quality professional development to participants in such program or activity;

(2) the number of participants served through the program or activity, the number of participants who completed the requirements of the program or activity, and the number of participants who took positions in an instruction setting with limited English proficient children;

(3) the effectiveness of the program or activity in imparting the professional skills necessary for participants to achieve the objectives of the program or activity; and

(4) the teaching effectiveness of graduates of the program or activity or other participants who have completed the program or activity.

(Pub. L. 89–10, title III, § 3231, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1720.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(4), 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.

PRIOR PROVISIONS

A prior section 6951, Pub. L. 89–10, title III, § 3401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3666, authorized a national telecommunications-based demonstration project to improve the teaching of mathematics, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6952 and 6953 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6952, Pub. L. 89–10, title III, § 3402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, required application for demonstration project grant.

Section 6953, Pub. L. 89–10, title III, § 3403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

SUBPART 4—EMERGENCY IMMIGRANT EDUCATION PROGRAM

§ 6961. Purpose

The purpose of this subpart is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration—

(1) to provide high-quality instruction to immigrant children and youth; and

(2) to help such children and youth—

(A) with their transition into American society; and

(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(Pub. L. 89–10, title III, § 3241, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1723.)

§ 6962. State administrative costs

For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this subpart to local educational agencies on a competitive basis) of the amount allotted to such agency under section 6964 of this title to pay the costs of performing such agency's administrative functions under this subpart.

(Pub. L. 89–10, title III, § 3242, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1723.)

§ 6963. 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 comply with a requirement of any provision of this subpart, the Secretary shall notify that agency that further payments will not be made to the agency under this subpart or, in the discretion of the Secretary, that the State educational agency shall not make further payments under this subpart 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 subpart, or payments by the State educational agency under this subpart 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 III, § 3243, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1724.)

§ 6964. State allotments

(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 2002 through 2008 for the purpose set forth in section 6961 of this title.

(b) Allotments

(1) In general

Except as provided in subsections (c) and (d) of this section, of the amount appropriated for each fiscal year for this subpart, each State participating in the program assisted under this subpart shall receive an allotment equal to the proportion of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2), and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency within such State, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this subpart.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is a local educational agency for which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agency, and in nonpublic elementary schools or secondary schools within the district served by such agency, during the fiscal year for which the payments are to be made under this subpart, is equal to at least—

(A) 500; or

(B) 3 percent of the total number of children enrolled in such public or nonpublic schools during such fiscal year,

whichever 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 allotment under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

(d) Reallotment

(1) In general

Whenever the Secretary determines that any amount of a payment made to a State under this subpart 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.

(2) Fiscal year

Any amount made available to a State from any appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subpart, 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 subpart, if the amount appropriated to carry out this subpart 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 subpart for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

(A) Agencies with immigrant children and youth

At least ½ of the funds reserved under this paragraph 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) Agencies with a sudden influx of children and youth

Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State that are experiencing a sudden influx of immigrant children and youth and that are otherwise not eligible for assistance under this subpart.

(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 6967 of this title.

(3) Information

Local educational agencies receiving funds under paragraph (1) with the highest number of immigrant children and youth may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children and youth.

(Pub. L. 89–10, title III, § 3244, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1724.)

§ 6965. State applications

(a) Submission

No State educational agency shall receive any payment under this subpart 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 subpart are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this subpart will be used for purposes set forth in sections 6961 and 6967 of this title, including a description of how local educational agencies receiving funds under this subpart will use such funds to meet such purposes and will coordinate with entities carrying out other programs and activities assisted under this chapter, and other Acts as appropriate;

(3) provide an assurance that local educational agencies receiving funds under this subpart will coordinate the use of such funds with entities carrying out programs and activities assisted under part A of subchapter I of this chapter;

(4) provide assurances that such payments, with the exception of payments reserved under section 6964(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 6964(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 subpart 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 subpart;

(7) provide assurances—

(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools 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 subpart for any materials or equipment, or property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this subpart, 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 con-

tract 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 school 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 section 6964(e) of this title be awarded on a competitive basis based on merit and need in accordance with such section; and

(9) provide an assurance that the State educational agency and local educational agencies in the State receiving funds under this subpart will comply with the requirements of section 6320(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 that 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 educational agency.

(Pub. L. 89–10, title III, § 3245, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1725.)

§ 6966. 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 6965 of this title of the amount of such agency's allotment under section 6964 of this title for the succeeding year.

(b) Services to immigrant children and youth enrolled in nonpublic schools

If by reason of any provision of law a local educational agency is prohibited from providing educational services for immigrant children and youth enrolled in nonpublic elementary schools and secondary schools, as required by section 6965(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 such children and youth enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this subpart, to such children and youth. 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 III, § 3246, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1727.)

§ 6967. Uses of funds

(a) Use of funds

Funds awarded under this subpart 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) support 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;

(5) the provision of basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services; and

(6) such other activities, related to the purpose of this subpart, as the Secretary may authorize.

(b) Consortia

A local educational agency that receives a grant under this subpart may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out a program described in an application approved under this subpart.

(c) 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 institutions or organizations to carry out a program described in an application approved under this subpart, including a program to serve out-of-school youth.

(d) Construction

Nothing in this subpart shall be construed to prohibit a local educational agency from serving immigrant children and youth simultaneously with children and youth with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title III, § 3247, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1727.)

§ 6968. Reports

(a) Biennial report

Each State educational agency receiving funds under this subpart shall submit, once every 2 years, a report to the Secretary concerning the

expenditure of funds by local educational agencies under this subpart. Each local educational agency receiving funds under this subpart 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 2 years, a report to the appropriate committees of Congress concerning programs assisted under this subpart.

(Pub. L. 89–10, title III, § 3248, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

PRIOR PROVISIONS

Prior sections 6971 to 6979 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6971, Pub. L. 89–10, title III, § 3501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, set forth short title of the Elementary Mathematics and Science Equipment Act.

Section 6972, Pub. L. 89–10, title III, § 3502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, stated purpose of former provisions.

Section 6973, Pub. L. 89–10, title III, § 3503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, authorized program for the provision of equipment and materials to elementary schools to improve mathematics and science education.

Section 6974, Pub. L. 89–10, title III, § 3504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, related to allotments of funds.

Section 6975, Pub. L. 89–10, title III, § 3505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3668, related to State application for an allotment.

Section 6976, Pub. L. 89–10, title III, § 3506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3669, related to local application for a grant.

Section 6977, Pub. L. 89–10, title III, § 3507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670, set forth program requirements.

Section 6978, Pub. L. 89–10, title III, § 3508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670, related to Federal administration of programs.

Section 6979, Pub. L. 89–10, title III, § 3509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, authorized appropriations.

SUBPART 5—ADMINISTRATION

§ 6981. Release time

The Secretary shall allow entities carrying out professional development programs funded under this part to use funds provided under this part for professional release time to enable individuals to participate in programs assisted under this part.

(Pub. L. 89–10, title III, § 3251, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

§ 6982. Notification

A State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days after the date an award under this part is made to an eligible entity within the State.

(Pub. L. 89–10, title III, § 3252, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

§ 6983. 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 children 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 children and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students and relevant programs operated by the Department, including programs under this part 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 educational opportunities to all language-minority and limited English proficient children.

(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 children.

(c) Publication of proposals

The Secretary shall publish and disseminate all requests for proposals for programs funded under this part.

(d) Report

The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

(2) containing a critical synthesis of data reported by States under section 6934 of this title, when applicable;

(3) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(4) containing the major findings of scientifically based research carried out under this part; and

(5) containing other information gathered from the reports submitted to the Secretary under this subchapter when applicable.

(Pub. L. 89–10, title III, § 3253, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

PRIOR PROVISIONS

A prior section 7001, 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, related to limitation on availability of certain funds for schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6777 of this title.

Another prior section 7001 and prior sections 7002 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.

PART C—GENERAL PROVISIONS

§ 7011. Definitions

Except as otherwise provided, in this subchapter:

(1) Child

The term ''child'' means any individual aged 3 through 21.

(2) Community-based organization

The term ''community-based organization'' means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

(3) Community college

The term ''community college'' means an institution of higher education as defined in section 1001 of this title that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(4) Director

The term ''Director'' means the Director of the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students established under section 3420 of this title.

(5) Family education program

The term ''family education program'' means a language instruction educational program or special alternative instruction program that—

(A) is designed—

(i) to help limited English proficient adults and out-of-school youths achieve English proficiency; and

(ii) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

(B) when feasible, uses instructional programs based on models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

(C) gives preference to participation by parents and immediate family members of children attending school.

(6) 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 3 full academic years.

(7) Indian tribe

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation 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 as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(8) Language instruction educational program

The term ''language instruction educational program'' means an instruction course—

(A) in which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards, as required by section 6311(b)(1) of this title; and

(B) that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

(9) Native American and Native American language

The terms ''Native American'' and ''Native American language'' shall have the meanings 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) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

(B) not less than 5 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—

(A) the language normally used by such individual; or

(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

(12) Paraprofessional

The term ''paraprofessional'' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

(13) Specially qualified agency

The term ''specially qualified agency'' means an eligible entity, as defined in section 6871 of this title, in a State whose State educational agency—

(A) does not participate in a program under subpart 1 of part A of this subchapter for a fiscal year; or

(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

(14) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(15) Tribally sanctioned educational authority

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 a school described in section 6822(a) of this title or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A of this subchapter for individuals served by a school described in section 6822(a) of this title.

(Pub. L. 89–10, title III, § 3301, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1729; amended Pub. L. 110–315, title IX, § 941(k)(2)(F)(i), Aug. 14, 2008, 122 Stat. 3466.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (3), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, 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.

The Alaska Native Claims Settlement Act, referred to in par. (7), 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.

PRIOR PROVISIONS

A prior section 3301 of Pub. L. 89–10 was classified to section 6921 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2008—Par. (3). Pub. L. 110–315 substituted ''the Tribally Controlled Colleges and Universities Assistance Act of 1978'' for ''the Tribally Controlled College or University Assistance Act of 1978''.

§ 7012. Parental notification

(a) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of—

(1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

(3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;

(4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;

(5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;

(6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this subchapter are used for children in secondary schools;

(7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

(8) information pertaining to parental rights that includes written guidance—

(A) detailing—

(i) the right that parents have to have their child immediately removed from such program upon their request; and

(ii) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(B) assisting parents in selecting among various programs and methods of instruc-

tion, if more than one program or method is offered by the eligible entity.

(b) Separate notification

In addition to providing the information required to be provided under subsection (a) of this section, each eligible entity that is using funds provided under this subchapter to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 6842 of this title for any fiscal year for which part A of this subchapter is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

(c) Receipt of information

The information required to be provided under subsections (a) and (b) of this section to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

(d) Special rule applicable during school year

For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) of this section with respect to the parents of the child within 2 weeks of the child being placed in such a program.

(e) Parental participation

(1) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall implement an effective means of outreach to parents of limited English proficient children to inform such parents of how they can—

(A) be involved in the education of their children; and

(B) be active participants in assisting their children—

(i) to learn English;

(ii) to achieve at high levels in core academic subjects; and

(iii) to meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(2) Receipt of recommendations

The outreach described in paragraph (1) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents described in such paragraph.

(f) Basis for admission or exclusion

A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(Pub. L. 89–10, title III, § 3302, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1732.)

PRIOR PROVISIONS

A prior section 3302 of Pub. L. 89–10 was classified to section 6922 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7013. National clearinghouse

The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for limited English proficient children, and related programs. The National Clearinghouse shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;

(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

(4) collect and disseminate information on—

(A) educational research and processes related to the education of limited English proficient children; and

(B) accountability systems that monitor the academic progress of limited English proficient children in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and

(5) publish, on an annual basis, a list of grant recipients under this subchapter.

(Pub. L. 89–10, title III, § 3303, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1733; amended Pub. L. 107–279, title IV, § 404(d)(5)(B), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 3303 of Pub. L. 89–10 was classified to section 6923 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Par. (1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7014. Regulations

In developing regulations under this subchapter, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient children.

(Pub. L. 89–10, title III, § 3304, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 3304 of Pub. L. 89–10 was classified to section 6924 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBCHAPTER IV—21ST CENTURY SCHOOLS

CODIFICATION

Title IV of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title IV is shown, herein, as having been added by Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

§ 7101. Short title

This part may be cited as the ''Safe and Drug-Free Schools and Communities Act''.

(Pub. L. 89–10, title IV, § 4001, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7101, Pub. L. 89–10, title IV, § 4001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, set forth short title of subchapter as the Safe and Drug-Free Schools and Communities Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4001 of Pub. L. 89–10 was classified to section 3041 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS

Pub. L. 101–647, title XV, § 1501, Nov. 29, 1990, 104 Stat. 4836, required the Attorney General to develop a model program of strategies and tactics for establishing and maintaining drug-free school zones and to submit a report to Congress, at the conclusion of the program, describing the strategies and tactics that were found to be successful in establishing, enforcing, and maintaining drug-free school zones.

§ 7102. Purpose

The purpose of this part is to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement, through the provision of Federal assistance to—

(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention and early intervention;

(2) States for grants to, and contracts with, community-based organizations and public and private entities for programs of drug and violence prevention and early intervention, including community-wide drug and violence prevention planning and organizing activities;

(3) States for development, training, technical assistance, and coordination activities; and

(4) public and private entities to provide technical assistance; conduct training, demonstrations, and evaluation; and to provide supplementary services and community-wide drug and violence prevention planning and organizing activities for the prevention of drug use and violence among students and youth.

(Pub. L. 89–10, title IV, § 4002, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7102, Pub. L. 89–10, title IV, § 4002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4002 of Pub. L. 89–10 was classified to section 3042 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7103. Authorization of appropriations

There are authorized to be appropriated—

(1) $650,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years, for State grants under subpart 1 of this part; and

(2) such sums for fiscal year 2002, and for each of the 5 succeeding fiscal years, for national programs under subpart 2 of this part.

(Pub. L. 89–10, title IV, § 4003, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7103, Pub. L. 89–10, title IV, § 4003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3673, set forth purpose of former provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7102 of this title.

A prior section 4003 of Pub. L. 89–10 was classified to section 3043 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7104, Pub. L. 89–10, title IV, § 4004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, related to funding, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7103 of this title.

A prior section 4004 of Pub. L. 89–10 was classified to section 3044 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7105, Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth to encourage private gifts of property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–125 (former 20 U.S.C. 4601 et seq.), was omitted from the Code because of the repeal of subtitle B. Section was formerly classified to section 4665, and subsequently section 3225, of this title.

SUBPART 1—STATE GRANTS

§ 7111. Reservations and allotments

(a) Reservations

(1) In general

From the amount made available under section 7103(1) of this title to carry out this subpart for each fiscal year, the Secretary—

(A) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs and to carry out programs described in this subpart;

(B) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth; and

(C) shall reserve 0.2 percent of such amount for Native Hawaiians to be used under section 7117 of this title to carry out programs described in this subpart.

(2) Other reservations

From the amount made available under section 7103(2) of this title to carry out subpart 2 of this part for each fiscal year, the Secretary—

(A) may reserve not more than $2,000,000 for the national impact evaluation required by section 7132(a) of this title;

(B) notwithstanding section 3 of the No Child Left Behind Act of 2001,[1] shall reserve an amount necessary to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the same terms and conditions as provided for in the grants involved).

(b) State allotments

(1) In general

Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allot among the States—

(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 section 6334 of this title for the preceding year 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 the greater of—

(A) one-half of 1 percent of the total amount allotted to all the States under this subsection; or

(B) the amount such State received for fiscal year 2001 under section 4111 as such section was in effect the day preceding January 8, 2002.[1]

(3) Reallotment

(A) Reallotment for failure to apply

If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

(B) Reallotment of unused funds

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 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

(4) Definition

In this section the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Limitation

Amounts appropriated under section 7103(2) of this title for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 7103(1) of this title for the fiscal year involved are at least 10 percent greater that[2] the amounts appropriated under such section 7103(1) of this title for the previous fiscal year.

(Pub. L. 89–10, title IV, § 4111, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1735.)

REFERENCES IN TEXT

Section 3 of the No Child Left Behind Act of 2001, referred to in subsec. (a)(2)(B), is section 3 of Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1426, which is not classified to the Code. The reference probably should be to section 4 of the Act, which is set out as a note under section 6301 of this title, and which contains transition provisions

Section 4111 as such section was in effect the day preceding January 8, 2002, referred to in subsec. (b)(2)(B), probably means section 4011 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, which was classified to this section prior to the general amendment of this subchapter by Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.

PRIOR PROVISIONS

A prior section 7111, Pub. L. 89–10, title IV, § 4011 [4111], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, related to reservations and allotments, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7112. Reservation of State funds for safe and drug-free schools

(a) State reservation for the chief executive officer of a State

(1) In general

The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 7111(b) of this title for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions) other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive State plan described in section 7113(a) of this title through programs or activities that complement and support activities of local educational agencies described in section 7115(b) of this title. Such officer shall award grants based on—

(A) the quality of the program or activity proposed; and

(B) how the program or activity meets the principles of effectiveness described in section 7115(a) of this title.

(2) Priority

In making such grants and contracts under this section, a chief executive officer shall

[1] See References in Text note below.

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

give priority to programs and activities that prevent illegal drug use and violence for—

(A) children and youth who are not normally served by State educational agencies or local educational agencies; or

(B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(3) Special consideration

In awarding funds under paragraph (1), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

(4) Peer review

Grants or contracts awarded under this section shall be subject to a peer review process.

(5) Use of funds

Grants and contracts under this section shall be used to implement drug and violence prevention activities, including—

(A) activities that complement and support local educational agency activities under section 7115 of this title, including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

(B) dissemination of information about drug and violence prevention; and

(C) development and implementation of community-wide drug and violence prevention planning and organizing.

(6) Administrative costs

The chief executive officer of a State may use not more than 3 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) In State distribution

(1) In general

A State educational agency shall distribute not less than 93 percent of the amount made available to the State under section 7111(b) of this title, less the amount reserved under subsection (a) of this section, to its local educational agencies.

(2) State administration costs

(A) In general

A State educational agency may use not more than 3 percent of the amount made available to the State under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for State educational agency administrative costs, including the implementation of the uniform management information and reporting system as provided for under subsection (c)(3) of this section.

(B) Additional amounts for the uniform management information system

In the case of fiscal year 2002, a State educational agency may, in addition to amounts provided for in subparagraph (A), use 1 percent of the amount made available to the State educational agency under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for implementation of the uniform management information and reporting system as provided for under subsection (c)(3) of this section.

(c) State activities

(1) In general

A State educational agency may use not more than 5 percent of the amount made available to the State under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for activities described in this subsection.

(2) Activities

A State educational agency shall use the amounts described in paragraph (1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities. Such uses—

(A) shall meet the principles of effectiveness described in section 7115(a) of this title;

(B) shall complement and support local uses of funds under section 7115(b) of this title;

(C) shall be in accordance with the purposes of this part; and

(D) may include, among others activities—

(i) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

(ii) training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and

(iii) financial assistance to enhance drug and violence prevention resources available in areas that serve large numbers of low-income children, are sparsely populated, or have other special needs.

(3) Uniform management information and reporting system

(A) Information and statistics

A State shall establish a uniform management information and reporting system.

(B) Uses of funds

A State may use funds described in subparagraphs (A) and (B) of subsection (b)(2) of this section, either directly or through grants and contracts, to implement the uniform management information and reporting system described in subparagraph (A), for the collection of information on—

(i) truancy rates;

(ii) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State;

(iii) the types of curricula, programs, and services provided by the chief execu-

tive officer, the State educational agency, local educational agencies, and other recipients of funds under this subpart; and

(iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

(C) Compilation of statistics

In compiling the statistics required for the uniform management information and reporting system, the offenses described in subparagraph (B)(ii) shall be defined pursuant to the State's criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

(D) Reporting

The information described under subparagraph (B) shall be reported to the public and the data referenced in clauses (i) and (ii) of such subparagraph shall be reported to the State on a school-by-school basis.

(E) Limitation

Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes committed on school property or school security.

(Pub. L. 89–10, title IV, § 4112, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1736.)

PRIOR PROVISIONS

A prior section 7112, Pub. L. 89–10, title IV, § 4112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3675, related to State applications, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7113 of this title.

§ 7113. State application

(a) In general

In order to receive an allotment under section 7111(b) 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) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer of the State to provide safe, orderly, and drug-free schools and communities through programs and activities that complement and support activities of local educational agencies under section 7115(b) of this title, that comply with the principles of effectiveness under section 7115(a) of this title, and that otherwise are in accordance with the purpose of this part;

(2) describes how activities funded under this subpart will foster a safe and drug-free learning environment that supports academic achievement;

(3) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school 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) describes 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 and other programs, as appropriate, in accordance with the provisions in section 7846 of this title;

(5) provides an assurance that funds reserved under section 7112(a) of this title will not duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based drug and violence prevention activities and that those funds will be used to serve populations not normally served by the State educational agencies and local educational agencies and populations that need special services, such as school dropouts, suspended and expelled students, youth in detention centers, runaway or homeless children and youth, and pregnant and parenting youth;

(6) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 7132 of this title;

(7) provides an assurance that the local educational agencies in the State will comply with the provisions of section 7881 of this title pertaining to the participation of private school children and teachers in the programs and activities under this subpart;

(8) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(9) contains the results of a needs assessment conducted by the State for drug and violence prevention programs, which shall be based on ongoing State evaluation activities, including data on—

(A) the incidence and prevalence of illegal drug use and violence among youth in schools and communities, including the age of onset, the perception of health risks, and the perception of social disapproval among such youth;

(B) the prevalence of risk factors, including high or increasing rates of reported cases of child abuse or domestic violence;

(C) the prevalence of protective factors, buffers, or assets; and

(D) other variables in the school and community identified through scientifically based research;

(10) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this subpart that will be focused on stu-

dent behavior and attitudes, derived from the needs assessment described in paragraph (9), and be developed in consultation between the State and local officials, and that consist of—

(A) performance indicators for drug and violence prevention programs and activities; and

(B) levels of performance for each performance indicator;

(11) describes the procedures the State will use for assessing and publicly reporting progress toward meeting the performance measures described in paragraph (10);

(12) provides an assurance that the State application will be available for public review after submission of the application;

(13) describes the special outreach activities that will be carried out by the State educational agency and the chief executive officer of the State to maximize the participation of community-based organizations of demonstrated effectiveness that provide services such as mentoring programs in low-income communities;

(14) describes how funds will be used by the State educational agency and the chief executive officer of the State to support, develop, and implement community-wide comprehensive drug and violence prevention planning and organizing activities;

(15) describes how input from parents will be sought regarding the use of funds by the State educational agency and the chief executive officer of the State;

(16) describes how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review;

(17) describes how the State educational agency will monitor the implementation of activities under this subpart, and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations;

(18) describes how the chief executive officer of the State will award funds under section 7112(a) of this title and implement a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds; and

(19) includes any other information the Secretary may require.

(b) Interim application

(1) Authority

Notwithstanding any other provision of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that is consistent with the requirements of this section and contains such information as the Secretary may specify in regulations.

(2) Purpose

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.

(3) Exception

A State may not receive a grant under this subpart for a fiscal year after fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan as described in subsection (a) of this section.

(c) Approval process

(1) Deemed approval

An application submitted by a State pursuant to this section shall undergo peer review by the Secretary and shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(2) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing.

(3) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

(A) give the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing; and

(B) notify the State educational agency and the chief executive officer of the State of the finding of noncompliance, and in such notification, shall—

(i) cite the specific provisions in the application that are not in compliance; and

(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) Response

If the State educational agency and the chief executive officer of the State respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmit the application with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such application prior to the later of—

(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the State educational agency and the chief executive officer of the State do not respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4113, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1739.)

PRIOR PROVISIONS

A prior section 7113, Pub. L. 89–10, title IV, § 4113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3677, related to State and local educational agency programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7114 of this title.

§ 7114. Local educational agency program

(a) In general

(1) Funds to local educational agencies

A State shall provide the amount made available to the State under this subpart, less the amounts reserved under section 7112 of this title to local educational agencies for drug and violence prevention and education programs and activities as follows:

(A) 60 percent of such amount based on the relative amount such agencies received under part A of subchapter I of this chapter for the preceding fiscal year.

(B) 40 percent of such amount based on the relative enrollments in public and private nonprofit elementary schools and secondary schools within the boundaries of such agencies.

(2) Administrative costs

Of the amount received under paragraph (1), a local educational agency may use not more than 2 percent for the administrative costs of carrying out its responsibilities under this subpart.

(3) Return of funds to State; reallocation

(A) Return

Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date on which a local educational agency receives its allocation under this subpart—

(i) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

(ii) the State educational agency shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

(B) Carryover

In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

(i) an amount equal to not more than 25 percent of the allocation it received under this subpart for such fiscal year; or

(ii) upon a demonstration of good cause by such agency and approval by the State educational agency, an amount that exceeds 25 percent of such allocation.

(C) Reallocation

If a local educational agency chooses not to apply to receive the amount allocated to such agency under this subsection, or if such agency's application under subsection (d) of this section is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

(b) Eligibility

To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State educational agency in accordance with subsection (d) of this section. Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

(c) Development

(1) Consultation

(A) In general

A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).

(B) Continued consultation

On an ongoing basis, the local educational agency shall consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

(2) Design and development

To ensure timely and meaningful consultation under paragraph (1), a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 7115(a) of this title.

(d) Contents of applications

An application submitted by a local educational agency under this section shall contain—

(1) an assurance that the activities or programs to be funded comply with the principles of effectiveness described in section 7115(a) of this title and foster a safe and drug-free learning environment that supports academic achievement;

(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, including a description of—

(A) how the plan will be coordinated with programs under this chapter, and other Federal, State, and local programs for drug and violence prevention, in accordance with section 7846 of this title;

(B) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of—

(i) performance indicators for drug and violence prevention programs and activities; including—

(I) specific reductions in the prevalence of identified risk factors; and

(II) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; and

(ii) levels of performance for each performance indicator;

(C) how such agency will assess and publicly report progress toward attaining its performance measures;

(D) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 7115(a) of this title, and the means of evaluating such activity or program; and

(E) how the services will be targeted to schools and students with the greatest need;

(3) a description for how the results of the evaluations of the effectiveness of the program will be used to refine, improve, and strengthen the program;

(4) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(5) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this subpart;

(6) an assurance that drug and violence prevention programs supported under this subpart convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;

(7) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

(A) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

(B) security procedures at school and while students are on the way to and from school;

(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments;

(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

(E) a code of conduct policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that—

(i) allows a teacher to communicate effectively with all students in the class;

(ii) allows all students in the class to learn;

(iii) has consequences that are fair, and developmentally appropriate;

(iv) considers the student and the circumstances of the situation; and

(v) is enforced accordingly;

(8) an assurance that the application and any waiver request under section 7115(a)(3) of this title will be available for public review after submission of the application; and

(9) such other assurances, goals, and objectives identified through scientifically based research that the State may reasonably require in accordance with the purpose of this part.

(e) 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

In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of application and the extent to which the application meets the principles of effectiveness described in section 7115(a) of this title.

(f) Approval process

(1) Deemed approval

An application submitted by a local educational agency pursuant to this section shall be deemed to be approved by the State educational agency unless the State educational agency makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with this subpart.

(2) Disapproval

The State educational agency shall not finally disapprove the application, except after giving the local educational agency notice and opportunity for a hearing.

(3) Notification

If the State educational agency finds that the application is not in compliance, in whole or in part, with this subpart, the State educational agency shall—

(A) give the local educational agency notice and an opportunity for a hearing; and

(B) notify the local educational agency of the finding of noncompliance, and in such notification, shall—

(i) cite the specific provisions in the application that are not in compliance; and

(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) Response

If the local educational agency responds to the State educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in paragraph (3)(B)(ii), the State educational agency shall approve or disapprove such application prior to the later of—

(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the local educational agency does not respond to the State educational agency's notifi-

cation described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4114, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1742.)

PRIOR PROVISIONS

A prior section 7114, Pub. L. 89–10, title IV, § 4114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3679, related to governor's programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7115. Authorized activities

(a) Principles of effectiveness

(1) In general

For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

(A) be based on an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary schools and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

(B) be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served by the program have a safe, orderly, and drug-free learning environment;

(C) be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use;

(D) be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables in schools and communities in the State identified through scientifically based research; and

(E) include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

(2) Periodic evaluation

(A) Requirement

The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use in schools to be served based on performance measures described in section 7114(d)(2)(B) of this title.

(B) Use of results

The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures, and shall also be made available to the public upon request, with public notice of such availability provided.

(3) Waiver

A local educational agency may apply to the State for a waiver of the requirement of subsection (a)(1)(C) of this section to allow innovative activities or programs that demonstrate substantial likelihood of success.

(b) Local educational agency activities

(1) Program requirements

A local educational agency shall use funds made available under section 7114 of this title to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

(A) foster a safe and drug-free learning environment that supports academic achievement;

(B) be consistent with the principles of effectiveness described in subsection (a)(1) of this section;

(C) be designed to—

(i) prevent or reduce violence; the use, possession and distribution of illegal drugs; and delinquency; and

(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

(D) include activities to—

(i) promote the involvement of parents in the activity or program;

(ii) promote coordination with community groups and coalitions, and government agencies; and

(iii) distribute information about the local educational agency's needs, goals, and programs under this subpart.

(2) Authorized activities

Each local educational agency, or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities that comply with the principles of effectiveness described in subsection (a) of this section, such as the following:

(A) Age appropriate and developmentally based activities that—

(i) address the consequences of violence and the illegal use of drugs, as appropriate;

(ii) promote a sense of individual responsibility;

(iii) teach students that most people do not illegally use drugs;

(iv) teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;

(v) teach students about the dangers of emerging drugs;

(vi) engage students in the learning process; and

(vii) incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

(B) Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

(C) Dissemination of drug and violence prevention information to schools and the community.

(D) Professional development and training for, and involvement of, school personnel, pupil services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

(E) Drug and violence prevention activities that may include the following:

(i) Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.

(ii) Acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies.

(iii) Reporting criminal offenses committed on school property.

(iv) Developing and implementing comprehensive school security plans or obtaining technical assistance concerning such plans, which may include obtaining a security assessment or assistance from the School Security and Technology Resource Center at the Sandia National Laboratory located in Albuquerque, New Mexico.

(v) Supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety programs.

(vi) The hiring and mandatory training, based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.

(vii) Expanded and improved school-based mental health services related to illegal drug use and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school-based mental health service providers.

(viii) Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.

(ix) Alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the State academic achievement standards and to reenter the regular education setting.

(x) Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.

(xi) Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.

(xii) Drug and violence prevention activities designed to reduce truancy.

(xiii) Age-appropriate, developmentally-based violence prevention and education programs that address 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.

(xiv) Consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect.

(xv) Emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident that have disrupted the learning environment.

(xvi) Establishing or implementing a system for transferring suspension and expulsion records, consistent with section 1232g of this title, by a local educational agency to any public or private elementary school or secondary school.

(xvii) Developing and implementing character education programs, as a component of drug and violence prevention programs, that take into account the views of parents of the students for whom the program is intended and such students, such as a program described in subpart 3 of part D of subchapter V of this chapter.

(xviii) Establishing and maintaining a school safety hotline.

(xix) Community service, including community service performed by expelled students, and service-learning projects.

(xx) Conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's fitness—

(I) to be responsible for the safety or well-being of children;

(II) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

(III) to otherwise be employed by the local educational agency.

(xxi) Programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide.

(xxii) Programs that respond to the needs of students who are faced with domestic violence or child abuse.

(F) The evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives.

(c) Limitation

(1) In general

Except as provided in paragraph (2), not more than 40 percent of the funds available to a local educational agency under this subpart may be used to carry out the activities described in clauses (ii) through (vi) of subsection (b)(2)(E) of this section, of which not more than 50 percent of such amount may be used to carry out the activities described in clauses (ii) through (v) of such subsection.

(2) Exception

A local educational agency may use funds under this subpart for activities described in clauses (ii) through (v) of subsection (b)(2)(E) of this section only if funding for these activities is not received from other Federal agencies.

(d) Rule of construction

Nothing in this section shall be construed to prohibit the use of funds under this subpart by any local educational agency or school for the establishment or implementation of a school uniform policy if such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

(Pub. L. 89–10, title IV, § 4115, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1745.)

PRIOR PROVISIONS

A prior section 7115, Pub. L. 89–10, title IV, § 4115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3681, related to local applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7116. Reporting

(a) State report

(1) In general

By December 1, 2003, and every 2 years 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 7112(a)(1) of this title and section 7112(c) of this title and local educational agency programs under section 7115(b) of this title, as well as an assessment of their effectiveness;

(B) on the State's progress toward attaining its performance measures for drug and violence prevention under section 7113(a)(10) of this title; and

(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

(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 incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

(C) made readily available to the public.

(b) Local educational agency report

(1) In general

Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (a) of this section, including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

(2) Availability

Information under paragraph (1) shall be made readily available to the public.

(3) Provision of documentation

Not later than January 1 of each year that a State is required to report under subsection (a) of this section, the Secretary shall provide to the State educational agency all of the necessary documentation required for compliance with this section.

(Pub. L. 89–10, title IV, § 4116, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1750.)

PRIOR PROVISIONS

A prior section 7116, 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, related to local drug and violence prevention programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7117. Programs for Native Hawaiians

(a) General authority

From the funds made available pursuant to section 7111(a)(1)(C) 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 for the benefit of Native Hawaiians to plan, conduct, and administer programs, or portions thereof, that are authorized by and consistent with the provisions of this subpart.

(b) Definition of Native Hawaiian

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.

(Pub. L. 89–10, title IV, § 4117, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1750.)

PRIOR PROVISIONS

A prior section 7117, Pub. L. 89–10, title IV, § 4117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685, related to evaluation and reporting, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7116 of this title.

A prior section 7118, Pub. L. 89–10, title IV, § 4118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685, related to programs for Native Hawaiians, and was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7117 of this title.

SUBPART 2—NATIONAL PROGRAMS

§ 7131. Federal activities

(a) Program authorized

From funds made available to carry out this subpart under section 7103(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, 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. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private entities 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 the training of school personnel, parents, and members of the community for drug and violence prevention activities based on State and local needs;

(2) the development, demonstration, scientifically based evaluation, and dissemination of innovative and high quality drug and violence prevention programs and activities, based on State and local needs, which may include—

(A) alternative education models, either established within a school or separate and apart from an existing school, that are designed to promote drug and violence prevention, reduce disruptive behavior, reduce the need for repeat suspensions and expulsions, enable students to meet challenging State academic standards, and enable students to return to the regular classroom as soon as possible;

(B) community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

(C) video-based projects developed by noncommercial telecommunications entities that provide young people with models for conflict resolution and responsible decision-making; and

(D) child abuse education and prevention programs for elementary and secondary students;

(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination;

(4) the provision of information on violence prevention and education and school safety to the Department of Justice for dissemination;

(5) technical assistance to chief executive officers, State agencies, local educational agencies, and other recipients of funding under this part to build capacity to develop and implement high-quality, effective drug and violence prevention programs consistent with the principles of effectiveness in section 7115(a) of this title;

(6) assistance to school systems that have particularly severe drug and violence problems, including hiring drug prevention and school safety coordinators, or assistance to support appropriate response efforts to crisis situations;

(7) 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;

(8) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems; and

(9) other activities in accordance with the purpose of this part, based on State and local needs.

(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. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1751.)

PRIOR PROVISIONS

A prior section 7131, Pub. L. 89–10, title IV, § 4121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3686, related to Federal activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7132. Impact evaluation

(a) Biennial evaluation

The Secretary, in consultation with the Safe and Drug-Free Schools and Communities Advisory Committee described in section 7134 of this title, shall conduct an independent biennial evaluation of the impact of programs assisted under this subpart and of other recent and new initiatives to combat violence and illegal drug use in schools. The evaluation shall report on whether community and local educational agency programs funded under this subpart—

(1) comply with the principles of effectiveness described in section 7115(a) of this title;

(2) have appreciably reduced the level of illegal drug, alcohol, and tobacco use, and school violence and the illegal presence of weapons at schools; and

(3) have conducted effective parent involvement and training programs.

(b) Data collection

The National Center for Education Statistics shall collect data, that is subject to independent

review, to determine the incidence and prevalence of illegal drug use and violence in elementary schools and secondary schools in the States. The collected data shall include incident reports by schools officials, anonymous student surveys, and anonymous teacher surveys.

(c) Biennial report

Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under subsection (a) of this section together with the data collected under subsection (b) of this section and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence in elementary schools and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection 7116(a) of this title.

(Pub. L. 89–10, title IV, § 4122, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1752.)

PRIOR PROVISIONS

A prior section 7132, 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, prior to repeal by Pub. L. 105–244, § 3, title IX, § 981, Oct. 7, 1998, 112 Stat. 1585, 1837, effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244.

§ 7133. Hate crime prevention

(a) Grant authorization

From funds made available to carry out this subpart under section 7103(2) 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) Application

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 Secretary may reasonably require.

(3) Requirements

Each application under paragraph (2) shall include—

(A) a request for funds for the purpose 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, and 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) procedures for the 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 Congress a report every 2 years that 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. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1752.)

PRIOR PROVISIONS

A prior section 7133, Pub. L. 89–10, title IV, § 4123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687, related to hate crime prevention, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7134. Safe and Drug-Free Schools and Communities Advisory Committee

(a) Establishment

(1) In general

There is hereby established an advisory committee to be known as the ''Safe and Drug

Free Schools and Communities Advisory Committee'' (referred to in this section as the ''Advisory Committee'') to—

(A) consult with the Secretary under subsection (b) of this section;

(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

(C) develop core data sets and evaluation protocols for safe and drug-free school- and community-based programs;

(D) provide technical assistance and training for safe and drug-free school- and community-based programs;

(E) provide for the diffusion of scientifically based research to safe and drug-free school- and community-based programs; and

(F) review other regulations and standards developed under this subchapter.

(2) Composition

The Advisory Committee shall be composed of representatives from—

(A) the Department of Education;

(B) the Centers for Disease Control and Prevention;

(C) the National Institute on Drug Abuse;

(D) the National Institute on Alcoholism and Alcohol Abuse;

(E) the Center for Substance Abuse Prevention;

(F) the Center for Mental Health Services;

(G) the Office of Juvenile Justice and Delinquency Prevention;

(H) the Office of National Drug Control Policy;

(I) State and local governments, including education agencies; and

(J) researchers and expert practitioners.

(3) Consultation

In carrying out its duties under this section, the Advisory Committee shall annually consult with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups.

(b) Programs

(1) In general

From amounts made available under section 7103(2) of this title to carry out this subpart, the Secretary, in consultation with the Advisory Committee, shall carry out scientifically based research programs to strengthen the accountability and effectiveness of the State, chief executive officer's, and national programs under this part.

(2) Grants, contracts or cooperative agreements

The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and private entities and individuals or through agreements with other Federal agencies.

(3) Coordination

The Secretary shall coordinate programs under this section with other appropriate Federal activities.

(4) Activities

Activities that may be carried out under programs funded under this section may include—

(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State educational agencies and local educational agencies to support high quality, effective programs that—

(i) provide a thorough assessment of the substance abuse and violence problem;

(ii) utilize objective data and the knowledge of a wide range of community members;

(iii) develop measurable goals and objectives; and

(iv) implement scientifically based research activities that have been shown to be effective and that meet identified needs;

(B) the provision of technical assistance and training to foster program accountability;

(C) the diffusion and dissemination of best practices and programs;

(D) the development of core data sets and evaluation tools;

(E) program evaluations;

(F) 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; and

(G) other activities that meet unmet needs related to the purpose of this part and that are undertaken in consultation with the Advisory Committee.

(Pub. L. 89–10, title IV, § 4124, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1754.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees 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 committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7135. National Coordinator Program

(a) In general

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary may provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local educational agencies for the hiring of drug prevention and school safety program coordinators.

(b) Use of funds

Amounts received under a grant under subsection (a) of this section shall be used by local educational agencies to recruit, hire, and train individuals to serve as drug prevention and

school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools, and administering the safe and drug-free grant program at such schools.

(Pub. L. 89–10, title IV, § 4125, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1755.)

§ 7136. Community service grant program

(a) In general

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary may make grants to States to carry out programs under which students expelled or suspended from school are required to perform community service.

(b) Allocation

From the amount described in subsection (a) of this section, the Secretary shall allocate among the States—

(1) one-half according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(2) one-half according to the ratio between the amount each State received under section 6334 of this title for the preceding year and the sum of such amounts received by all the States.

(c) Minimum

For any fiscal year, no State shall be allotted under this section an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this section.

(d) 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 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under subsection (b) of this section.

(e) Definition

In this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title IV, § 4126, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7137. School Security Technology and Resource Center

(a) Center

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary, the Attorney General, and the Secretary of Energy may enter into an agreement for the establishment at the Sandia National Laboratories, in partnership with the National Law Enforcement and Corrections Technology Center—Southeast and the National Center for Rural Law Enforcement in Little Rock, Arkansas, of a center to be known as the ''School Security Technology and Resource Center'' (hereafter in this section ''the Center'').

(b) Administration

The Center established under subsection (a) of this section shall be administered by the Attorney General.

(c) Functions

The center established under subsection (a) of this section shall be a resource to local educational agencies for school security assessments, security technology development, evaluation and implementation, and technical assistance relating to improving school security. The Center will also conduct and publish school violence research, coalesce data from victim communities, and monitor and report on schools that implement school security strategies.

(Pub. L. 89–10, title IV, § 4127, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7138. National Center for School and Youth Safety

(a) Establishment

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary of Education and the Attorney General may jointly establish a National Center for School and Youth Safety (in this section referred to as the ''Center''). The Secretary of Education and the Attorney General may establish the Center at an existing facility, if the facility has a history of performing two or more of the duties described in subsection (b) of this section. The Secretary of Education and the Attorney General shall jointly appoint a Director of the Center to oversee the operation of the Center.

(b) Duties

The Center shall carry out emergency response, anonymous student hotline, consultation, and information and outreach activities with respect to elementary and secondary school safety, including the following:

(1) Emergency response

The staff of the Center, and such temporary contract employees as the Director of the Center shall determine necessary, shall offer emergency assistance to local communities to respond to school safety crises. Such assistance shall include counseling for victims and the community, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to future incidents.

(2) Anonymous student hotline

The Center shall establish a toll-free telephone number for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. The Center shall relay the reports, without attribution, to local law enforcement or appropriate school hotlines. The Director of the Center shall work with the Attorney General to establish guidelines for Center staff to work with law enforcement around the Nation to relay information reported through the hotline.

(3) Consultation

The Center shall establish a toll-free number for the public to contact staff of the Center for consultation regarding school safety. The Director of the Center shall hire administrative staff and individuals with expertise in enhancing school safety, including individuals with backgrounds in counseling and psychology, education, law enforcement and criminal justice, and community development to assist in the consultation.

(4) Information and outreach

The Center shall compile information about the best practices in school violence prevention, intervention, and crisis management, and shall serve as a clearinghouse for model school safety program information. The staff of the Center shall work to ensure local governments, school officials, parents, students, and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. The staff of the Center shall give special attention to providing outreach to rural and impoverished communities.

(Pub. L. 89–10, title IV, § 4128, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7139. Grants to reduce alcohol abuse

(a) In general

The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, may award grants from funds made available to carry out this subpart under section 7103(2) of this title, on a competitive basis, to local educational agencies to enable such agencies to develop and implement innovative and effective programs to reduce alcohol abuse in secondary schools.

(b) Eligibility

To be eligible to receive a grant under subsection (a) of this section, a local educational agency shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities to be carried out under the grant;

(2) an assurance that such activities will include one or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration;

(3) an explanation of how activities to be carried out under the grant that are not described in paragraph (2) will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities;

(4) an assurance that the applicant will submit to the Secretary an annual report concerning the effectiveness of the programs and activities funded under the grant; and

(5) such other information as the Secretary determines appropriate.

(c) Streamlining of process for low-income and rural LEAs

The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop procedures to make the application process for grants under this section more user-friendly, particularly for low-income and rural local educational agencies.

(d) Reservations

(1) SAMHSA

The Secretary may reserve 20 percent of any amount used to carry out this section to enable the Administrator of the Substance Abuse and Mental Health Services Administration to provide alcohol abuse resources and start-up assistance to local educational agencies receiving grants under this section.

(2) Low-income and rural areas

The Secretary may reserve 25 percent of any amount used to carry out this section to award grants to low-income and rural local educational agencies.

(Pub. L. 89–10, title IV, § 4129, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1757.)

§ 7140. Mentoring programs

(a) Purpose; definitions

(1) Purpose

The purpose of this section is to make assistance available to promote mentoring programs for children with greatest need—

(A) to assist such children in receiving support and guidance from a mentor;

(B) to improve the academic achievement of such children;

(C) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

(D) to reduce the dropout rate of such children; and

(E) to reduce juvenile delinquency and involvement in gangs by such children.

(2) Definitions

In this part:

(A) Child with greatest need

The term ''child with greatest need'' means a child who is at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or who lacks strong positive role models.

(B) Eligible entity

The term ''eligible entity'' means—

(i) a local educational agency;

(ii) a nonprofit, community-based organization; or

(iii) a partnership between a local educational agency and a nonprofit, community-based organization.

(C) Mentor

The term ''mentor'' means a responsible adult, a postsecondary school student, or a secondary school student who works with a child—

(i) to provide a positive role model for the child;

(ii) to establish a supportive relationship with the child; and

(iii) to provide the child with academic assistance and exposure to new experi-

ences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(D) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Grant program

(1) In general

The Secretary may award grants from funds made available to carry out this subpart under section 7103(2) of this title to eligible entities to assist such entities in establishing and supporting mentoring programs and activities for children with greatest need that—

(A) are designed to link such children (particularly children living in rural areas, high-crime areas, or troubled home environments, or children experiencing educational failure) with mentors who—

(i) have received training and support in mentoring;

(ii) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

(iii) are interested in working with children with greatest need; and

(B) are intended to achieve one or more of the following goals with respect to children with greatest need:

(i) Provide general guidance.

(ii) Promote personal and social responsibility.

(iii) Increase participation in, and enhance the ability to benefit from, elementary and secondary education.

(iv) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity.

(v) Encourage participation in community service and community activities.

(vi) Encourage setting goals and planning for the future, including encouragement of graduation from secondary school and planning for postsecondary education or training.

(viii)[1] Discourage involvement in gangs.

(2) Use of funds

(A) In general

Each eligible entity awarded a grant under this subsection shall use the grant funds for activities that establish or implement a mentoring program, that may include—

(i) hiring of mentoring coordinators and support staff;

(ii) providing for the professional development of mentoring coordinators and support staff;

(iii) recruitment, screening, and training of mentors;

(iv) reimbursement to schools, if appropriate, for the use of school materials or supplies in carrying out the mentoring program;

(v) dissemination of outreach materials;

(vi) evaluation of the mentoring program using scientifically based methods; and

(vii) such other activities as the Secretary may reasonably prescribe by rule.

(B) Prohibited uses

Notwithstanding subparagraph (A), an eligible entity awarded a grant under this section may not use the grant funds—

(i) to directly compensate mentors;

(ii) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the eligible entity's operations;

(iii) to support litigation of any kind; or

(iv) for any other purpose reasonably prohibited by the Secretary by rule.

(3) Availability of funds

Funds made available through a grant under this section shall be available for obligation for a period not to exceed 3 years.

(4) Application

Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

(A) a description of the plan for the mentoring program the eligible entity proposes to carry out with such grant;

(B) information on the children expected to be served by the mentoring program for which such grant is sought;

(C) a description of the mechanism the eligible entity will use to match children with mentors based on the needs of the children;

(D) an assurance that no mentor will be assigned to mentor so many children that the assignment will undermine the mentor's ability to be an effective mentor or the mentor's ability to establish a close relationship (a one-to-one relationship, where practicable) with each mentored child;

(E) an assurance that the mentoring program will provide children with a variety of experiences and support, including—

(i) emotional support;

(ii) academic assistance; and

(iii) exposure to experiences that the children might not otherwise encounter on their own;

(F) an assurance that the mentoring program will be monitored to ensure that each child assigned a mentor benefits from that assignment and that the child will be assigned a new mentor if the relationship between the original mentor and the child is not beneficial to the child;

(G) information regarding how mentors and children will be recruited to the mentoring program;

(H) information regarding how prospective mentors will be screened;

(I) information on the training that will be provided to mentors; and

(J) information on the system that the eligible entity will use to manage and monitor

[1] So in original. No cl. (vii) has been enacted.

information relating to the mentoring program's—

(i) reference checks;

(ii) child and domestic abuse record checks;

(iii) criminal background checks; and

(iv) procedure for matching children with mentors.

(5) Selection

(A) Competitive basis

In accordance with this subsection, the Secretary shall award grants to eligible entities on a competitive basis.

(B) Priority

In awarding grants under subparagraph (A), the Secretary shall give priority to each eligible entity that—

(i) serves children with greatest need living in rural areas, high-crime areas, or troubled home environments, or who attend schools with violence problems;

(ii) provides high quality background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs; or

(iii) proposes a school-based mentoring program.

(C) Other considerations

In awarding grants under subparagraph (A), the Secretary shall also consider—

(i) the degree to which the location of the mentoring program proposed by each eligible entity contributes to a fair distribution of mentoring programs with respect to urban and rural locations;

(ii) the quality of the mentoring program proposed by each eligible entity, including—

(I) the resources, if any, the eligible entity will dedicate to providing children with opportunities for job training or postsecondary education;

(II) the degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the proposed mentoring program;

(III) the degree to which the eligible entity can ensure that mentors will develop longstanding relationships with the children they mentor;

(IV) the degree to which the mentoring program will serve children with greatest need in the 4th through 8th grades; and

(V) the degree to which the mentoring program will continue to serve children from the 9th grade through graduation from secondary school, as needed; and

(iii) the capability of each eligible entity to effectively implement its mentoring program.

(D) Grant to each State

Notwithstanding any other provision of this subsection, in awarding grants under subparagraph (A), the Secretary shall select not less than one grant recipient from each State for which there is an eligible entity that submits an application of sufficient quality pursuant to paragraph (4).

(6) Model screening guidelines

(A) In general

Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop and distribute to each eligible entity awarded a grant under this section specific model guidelines for the screening of mentors who seek to participate in mentoring programs assisted under this section.

(B) Background checks

The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

(Pub. L. 89–10, title IV, § 4130, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1758.)

PRIOR PROVISIONS

Prior sections 7141 to 7144 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7141, Pub. L. 89–10, title IV, § 4131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689, defined terms. See section 7161 of this title.

Section 7142, Pub. L. 89–10, title IV, § 4132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689, related to materials. See section 7162 of this title.

Section 7143, Pub. L. 89–10, title IV, § 4133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690, set forth prohibited uses of funds. See section 7164 of this title.

Section 7144, 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, related to quality rating of drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools.

SUBPART 3—GUN POSSESSION

§ 7151. Gun-free requirements

(a) Short title

This subpart may be cited as the ''Gun-Free Schools Act''.

(b) Requirements

(1) In general

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

(2) Construction

Nothing in this subpart 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) Definition

For the purpose of this section, the term ''firearm'' has the same meaning given such term in section 921(a) 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 any subchapter of 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 firearms concerned.

(e) Reporting

Each State shall report the information described in subsection (d) of this section to the Secretary on an annual basis.

(f) Definition

For the purpose of subsection (d) of this section, the term ''school'' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) Exception

Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) Policy regarding criminal justice system referral

(1) In general

No funds shall be made available under any subchapter of 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.

(2) Definition

For the purpose of this subsection, the term ''school'' has the same meaning given to such term by section 921(a) of title 18.

(Pub. L. 89–10, title IV, § 4141, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1762.)

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.

SUBPART 4—GENERAL PROVISIONS

§ 7161. Definitions

In this part:

(1) Controlled substance

The term ''controlled substance'' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 812(c) of title 21.

(2) Drug

The term ''drug'' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

(3) 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 drugs;

(B) 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.

(4) Hate crime

The term ''hate crime'' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

(5) 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.

(6) Protective factor, buffer, or asset

The terms ''protective factor'', ''buffer'', and ''asset'' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

(7) Risk factor

The term ''risk factor'' means any one of a number of characteristics of the community,

school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community.

(8) 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.

(9) School based mental health services provider

The term ''school based mental health services provider'' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

(10) School personnel

The term ''school personnel'' includes teachers, principals, administrators, 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.

(11) School resource officer

The term ''school resource officer'' means a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to work in collaboration with schools and community based organizations to—

(A) educate students in crime and illegal drug use prevention and safety;

(B) develop or expand community justice initiatives for students; and

(C) train students in conflict resolution, restorative justice, and crime and illegal drug use awareness.

(Pub. L. 89–10, title IV, § 4151, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1763.)

REFERENCES IN TEXT

Section 1(b) of the Hate Crime Statistics Act of 1990, referred to in par. (4), 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.

§ 7162. Message and materials

(a) "Wrong and harmful" message

Drug and violence prevention programs supported under this part shall convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

(b) Curriculum

The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

(Pub. L. 89–10, title IV, § 4152, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1764.)

§ 7163. Parental consent

Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this part. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this part, other than classroom instruction.

(Pub. L. 89–10, title IV, § 4153, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

§ 7164. 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); or

(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 illegally use drugs.

(Pub. L. 89–10, title IV, § 4154, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

§ 7165. Transfer of school disciplinary records

(a) Nonapplication of provisions

This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

(b) Disciplinary records

In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after January 8, 2002, each State receiving Federal funds under this chapter shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

(Pub. L. 89–10, title IV, § 4155, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974, referred to in subsec. (b), is section 513 of Pub. L. 93–380, title V, Aug. 21, 1974, 88 Stat. 571, as amended, which enacted section 1232g of this title and provisions set out as notes under sections 1221 and 1232g of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of this title and Tables.

PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

§ 7171. Purpose; definitions

(a) Purpose

The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that—

(1) provide opportunities for academic enrichment, including providing tutorial serv-

ices to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics;

(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and

(3) offer families of students served by community learning centers opportunities for literacy and related educational development.

(b) Definitions

In this part:

(1) Community learning center

The term ''community learning center'' means an entity that—

(A) assists students in meeting State and local academic achievement standards in core academic subjects, such as reading and mathematics, by providing the students with opportunities for academic enrichment activities and a broad array of other activities (such as drug and violence prevention, counseling, art, music, recreation, technology, and character education programs) during nonschool hours or periods when school is not in session (such as before and after school or during summer recess) that reinforce and complement the regular academic programs of the schools attended by the students served; and

(B) offers families of students served by such center opportunities for literacy and related educational development.

(2) Covered program

The term ''covered program'' means a program for which—

(A) the Secretary made a grant under part I of title X (as such part was in effect on the day before January 8, 2002); and

(B) the grant period had not ended on January 8, 2002.

(3) Eligible entity

The term ''eligible entity'' means a local educational agency, community-based organization, another public or private entity, or a consortium of two or more of such agencies, organizations, or entities.

(4) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title IV, § 4201, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

REFERENCES IN TEXT

Part I of title X (as such part was in effect on the day before January 8, 2002), referred to in subsec. (b)(2)(A), means part I of title X of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, which was classified generally to part I (§ 8241 et seq.) of subchapter X of this chapter, prior to repeal by Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

§ 7172. Allotments to States

(a) Reservation

From the funds appropriated under section 7176 of this title for any fiscal year, the Secretary shall reserve—

(1) such amount as may be necessary to make continuation awards to grant recipients under covered programs (under the terms of those grants);

(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to eligible entities carrying out programs under this part or conducting a national evaluation; and

(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Affairs, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, to enable the outlying areas and the Bureau to carry out the purpose of this part.

(b) State allotments

(1) Determination

From the funds appropriated under section 7176 of this title for any fiscal year and remaining after the Secretary makes reservations under subsection (a) of this section, the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of subchapter I of this chapter for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except that no State shall receive less than an amount equal to one-half of 1 percent of the total amount made available to all States under this subsection.

(2) Reallotment of unused funds

If a State does not receive an allotment under this part for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

(c) State use of funds

(1) In general

Each State that receives an allotment under this part shall reserve not less than 95 percent of the amount allotted to such State under subsection (b) of this section, for each fiscal year for awards to eligible entities under section 7174 of this title.

(2) State administration

A State educational agency may use not more than 2 percent of the amount made available to the State under subsection (b) of this section for—

(A) the administrative costs of carrying out its responsibilities under this part;

(B) establishing and implementing a peer review process for grant applications described in section 7174(b) of this title (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities); and

(C)[1] supervising the awarding of funds to eligible entities (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities).

(3) State activities

A State educational agency may use not more than 3 percent of the amount made available to the State under subsection (b) of this section for the following activities:

(A) Monitoring and evaluation of programs and activities assisted under this part.

(B) Providing capacity building, training, and technical assistance under this part.

(C) Comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities assisted under this part.

(D) Providing training and technical assistance to eligible entities who are applicants for or recipients of awards under this part.

(Pub. L. 89–10, title IV, § 4202, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1766.)

§ 7173. State application

(a) In general

In order to receive an allotment under section 7172 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) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part;

(2) describes how the State educational agency will use funds received under this part, including funds reserved for State-level activities;

(3) contains an assurance that the State educational agency will make awards under this part only to eligible entities that propose to serve—

(A) students who primarily attend—

(i) schools eligible for schoolwide programs under section 6314 of this title; or

(ii) schools that serve a high percentage of students from low-income families; and

(B) the families of students described in subparagraph (A);

(4) describes the procedures and criteria the State educational agency will use for reviewing applications and awarding funds to eligible entities on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed community learning center will help participating students meet local content and student academic achievement standards;

(5) describes how the State educational agency will ensure that awards made under this part are—

(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

(B) in amounts that are consistent with section 7174(h) of this title;

(6) describes the steps the State educational agency will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

(7) describes how programs under this part will be coordinated with programs under this chapter, and other programs as appropriate;

(8) contains an assurance that the State educational agency—

(A) will make awards for programs for a period of not less than 3 years and not more than 5 years; and

(B) will require each eligible entity seeking such an award to submit a plan describing how the community learning center to be funded through the award will continue after funding under this part ends;

(9) contains an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part and other similar programs;

(10) contains an assurance that the State educational agency will require eligible entities to describe in their applications under section 7174(b) of this title how the transportation needs of participating students will be addressed;

(11) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, and other State agencies administering before and after school (or summer school) programs, the heads of the State health and mental health agencies or their designees, and representatives of teachers, parents, students, the business community, and community-based organizations;

(12) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of on-going State evaluation activities;

(13) describes how the State educational agency will evaluate the effectiveness of programs and activities carried out under this part, which shall include, at a minimum—

(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

(B) public dissemination of the evaluations of programs and activities carried out under this part; and

(14) provides for timely public notice of intent to file an application and an assurance that the application will be available for public review after submission.

(b) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

[1] Subparagraph designation editorially supplied.

(c) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and opportunity for a hearing.

(d) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance, and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(e) Response

If the State educational agency responds to the Secretary's notification described in subsection (d)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (d)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (b) of this section.

(f) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (d)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4203, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1767.)

§ 7174. Local competitive grant program

(a) In general

A State that receives funds under this part for a fiscal year shall provide the amount made available under section 7172(c)(1) of this title to eligible entities for community learning centers in accordance with this part.

(b) Application

(1) In general

To be eligible to receive an award under this part, an eligible entity shall submit an application to the State educational agency at such time, in such manner, and including such information as the State educational agency may reasonably require.

(2) Contents

Each application submitted under paragraph (1) shall include—

(A) a description of the before and after school or summer recess activities to be funded, including—

(i) an assurance that the program will take place in a safe and easily accessible facility;

(ii) a description of how students participating in the program carried out by the community learning center will travel safely to and from the center and home; and

(iii) a description of how the eligible entity will disseminate information about the community learning center (including its location) to the community in a manner that is understandable and accessible;

(B) a description of how the activity is expected to improve student academic achievement;

(C) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program to make the most effective use of public resources;

(D) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

(E) a description of how the activities will meet the principles of effectiveness described in section 7175(b) of this title;

(F) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 6314 of this title and the families of such students;

(G) an assurance that funds under this part will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this part, be made available for programs and activities authorized under this part, and in no case supplant Federal, State, local, or non-Federal funds;

(H) a description of the partnership between a local educational agency, a community-based organization, and another public entity or private entity, if appropriate;

(I) an evaluation of the community needs and available resources for the community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families);

(J) a demonstration that the eligible entity has experience, or promise of success, in providing educational and related activities that will complement and enhance the academic performance, achievement, and positive youth development of the students;

(K) a description of a preliminary plan for how the community learning center will continue after funding under this part ends;

(L) an assurance that the community will be given notice of an intent to submit an application and that the application and any waiver request will be available for public review after submission of the application;

(M) if the eligible entity plans to use senior volunteers in activities carried out through the community learning center, a description of how the eligible entity will encourage and use appropriately qualified seniors to serve as the volunteers; and

(N) such other information and assurances as the State educational agency may reasonably require.

(c) Approval of certain applications

The State educational agency may approve an application under this part for a program to be located in a facility other than an elementary school or secondary school only if the program will be at least as available and accessible to the students to be served as if the program were located in an elementary school or secondary school.

(d) Permissive local match

(1) In general

A State educational agency may require an eligible entity to match funds awarded under this part, except that such match may not exceed the amount of the grant award and may not be derived from other Federal or State funds.

(2) Sliding scale

The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

(A) the relative poverty of the population to be targeted by the eligible entity; and

(B) the ability of the eligible entity to obtain such matching funds.

(3) In-kind contributions

Each State educational agency that requires an eligible entity to match funds under this subsection shall permit the eligible entity to provide all or any portion of such match in the form of in-kind contributions.

(4) Consideration

Notwithstanding this subsection, a State educational agency shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive awards under this part.

(e) Peer review

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.

(f) Geographic diversity

To the extent practicable, a State educational agency shall distribute funds under this part equitably among geographic areas within the State, including urban and rural communities.

(g) Duration of awards

Grants under this part may be awarded for a period of not less than 3 years and not more than 5 years.

(h) Amount of awards

A grant awarded under this part may not be made in an amount that is less than $50,000.

(i) Priority

(1) In general

In awarding grants under this part, a State educational agency shall give priority to applications—

(A) proposing to target services to students who attend schools that have been identified as in need of improvement under section 6316 of this title; and

(B) submitted jointly by eligible entities consisting of not less than 1—

(i) local educational agency receiving funds under part A of subchapter I of this chapter; and

(ii) community-based organization or other public or private entity.

(2) Special rule

The State educational agency shall provide the same priority under paragraph (1) to an application submitted by a local educational agency if the local educational agency demonstrates that it is unable to partner with a community-based organization in reasonable geographic proximity and of sufficient quality to meet the requirements of this part.

(Pub. L. 89–10, title IV, § 4204, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1769.)

§ 7175. Local activities

(a) Authorized activities

Each eligible entity that receives an award under this part may use the award funds to carry out a broad array of before and after school activities (including during summer recess periods) that advance student academic achievement, including—

(1) remedial education activities and academic enrichment learning programs, including providing additional assistance to students to allow the students to improve their academic achievement;

(2) mathematics and science education activities;

(3) arts and music education activities;

(4) entrepreneurial education programs;

(5) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

(6) programs that provide after school activities for limited English proficient students that emphasize language skills and academic achievement;

(7) recreational activities;

(8) telecommunications and technology education programs;

(9) expanded library service hours;

(10) programs that promote parental involvement and family literacy;

(11) programs that provide assistance to students who have been truant, suspended, or expelled to allow the students to improve their academic achievement; and

(12) drug and violence prevention programs, counseling programs, and character education programs.

(b) Principles of effectiveness

(1) In general

For a program or activity developed pursuant to this part to meet the principles of effectiveness, such program or activity shall—

(A) be based upon an assessment of objective data regarding the need for before and after school programs (including during summer recess periods) and activities in the schools and communities;

(B) be based upon an established set of performance measures aimed at ensuring the availability of high quality academic enrichment opportunities; and

(C) if appropriate, be based upon scientifically based research that provides evidence that the program or activity will help students meet the State and local student academic achievement standards.

(2) Periodic evaluation

(A) In general

The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goal of providing high quality opportunities for academic enrichment.

(B) Use of results

The results of evaluations under subparagraph (A) shall be—

(i) used to refine, improve, and strengthen the program or activity, and to refine the performance measures; and

(ii) made available to the public upon request, with public notice of such availability provided.

(Pub. L. 89–10, title IV, § 4205, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1772.)

§ 7176. Authorization of appropriations

There are authorized to be appropriated—

(1) $1,250,000,000 for fiscal year 2002;
(2) $1,500,000,000 for fiscal year 2003;
(3) $1,750,000,000 for fiscal year 2004;
(4) $2,000,000,000 for fiscal year 2005;
(5) $2,250,000,000 for fiscal year 2006; and
(6) $2,500,000,000 for fiscal year 2007.

(Pub. L. 89–10, title IV, § 4206, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

PART C—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

Similar provisions relating to environmental tobacco smoke are contained in part B (§ 6081 et seq.) of subchapter X of chapter 68 of this title.

§ 7181. Short title

This part may be cited as the ''Pro-Children Act of 2001''.

(Pub. L. 89–10, title IV, § 4301, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

PRIOR PROVISIONS

A prior section 4301 of Pub. L. 89–10 was classified to section 3081 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7182. Definitions

As used in this part:

(1) Children

The term ''children'' means individuals who have not attained the age of 18.

(2) Children's services

The term ''children's services'' means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after January 8, 2002, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966 [42 U.S.C. 1786(b)(6)]; or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this part,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Indoor facility

The term ''indoor facility'' means a building that is enclosed.

(4) Person

The term ''person'' means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(5) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 89–10, title IV, § 4302, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 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 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, 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.

§ 7183. Nonsmoking policy for children's services

(a) Prohibition

After January 8, 2002, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

(1) In general

After January 8, 2002, no person shall permit smoking within any indoor facility (or portion

of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

(2) Exception

Paragraph (1) shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood development services

(A) In general

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

(B) Exception

Subparagraph (A) shall not apply to—

(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(ii) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after January 8, 2002, whichever occurs first.

(e) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed 50 percent of the amount of Federal funds received under any subchapter of this chapter by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c) of this section, the term ''person'', as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C)[1] such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may

[1] Opening parenthesis editorially supplied.

be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 89–10, title IV, § 4303, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1774.)

§ 7184. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 89–10, title IV, § 4304, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1776.)

SUBCHAPTER V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

CODIFICATION

Title V of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title V is shown, herein, as having been added by Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1776, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—INNOVATIVE PROGRAMS

§ 7201. Purposes, State and local responsibility

(a) Purposes

The purposes of this part are the following:

(1) To support local education reform efforts that are consistent with and support statewide education reform efforts.

(2) To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.

(3) To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.

(4) To meet the educational needs of all students, including at-risk youth.

(5) To develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

(b) State and local responsibility

The State educational agency shall bear the basic responsibility for the administration of funds made available under this part, 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 part be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because local educational 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 V, § 5101, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1776.)

PRIOR PROVISIONS

A prior section 7201, Pub. L. 89–10, title V, § 5101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690, set forth findings relating to magnet schools assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7231 of this title.

A prior section 5101 of Pub. L. 89–10 was classified to section 3171 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7202 to 7210 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7202, Pub. L. 89–10, title V, § 5102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, related to purpose of magnet schools assistance. See section 7231 of this title.

A prior section 5102 of Pub. L. 89–10 was classified to section 3172 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7203, Pub. L. 89–10, title V, § 5103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, authorized program. See section 7231b of this title.

A prior section 5103 of Pub. L. 89–10 was classified to section 3173 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7204, Pub. L. 89–10, title V, § 5104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, defined ''magnet school''. See section 7231a of this title.

Section 7205, Pub. L. 89–10, title V, § 5105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692, related to eligibility for assistance. See section 7231c of this title.

Section 7206, Pub. L. 89–10, title V, § 5106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692, related to applications and requirements. See section 7231d of this title.

Section 7207, Pub. L. 89–10, title V, § 5107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693,

related to priority in approving applications. See section 7231e of this title.

Section 7208, Pub. L. 89–10, title V, § 5108, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693, related to use of funds. See section 7231f of this title.

Section 7209, Pub. L. 89–10, title V, § 5109, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, set forth prohibitions. See section 7231g of this title.

Section 7210, Pub. L. 89–10, title V, § 5110, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, related to limitations. See section 7231h of this title.

SUBPART 1—STATE AND LOCAL PROGRAMS

§ 7211. Allotment to States

(a) In general

From the sums appropriated to carry out this part for each fiscal year and not reserved under subsection (b) of this section, the Secretary shall allot, and make available in accordance with this part, to each State educational agency an amount that bears the same ratio to such sums 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 1 percent of such sums.

(b) Reservation

From the sums appropriated to carry out this part for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to the outlying areas, to be allotted in accordance with their respective needs for assistance under this part.

(Pub. L. 89–10, title V, § 5111, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1777.)

PRIOR PROVISIONS

A prior section 7211, Pub. L. 89–10, title V, § 5111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, related to innovative programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 5111 of Pub. L. 89–10 was classified to section 3181 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7211a. Allocation to local educational agencies

(a) Distribution rule

(1) Allocation of base amounts

From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

(A) children living in areas with high concentrations of economically disadvantaged families;

(B) children from economically disadvantaged families; and

(C) children living in sparsely populated areas.

(2) Allocation of increased amounts

From the amount made available to a State educational agency under this part for a fiscal year that exceeds the amount made available to the agency under this part for fiscal year 2002, the State educational agency shall distribute 100 percent (or, in the case of a State educational agency receiving a minimum allotment under section 7211(a) of this title, not less than 50 percent, notwithstanding subsection (b) of this section) to local educational agencies within the State, on the same basis as the State educational agency distributes amounts under paragraph (1).

(b) Limitations and requirements

Not more than 15 percent of funds made available under section 7211 of this title for State programs under this part for any fiscal year may be used for State administration under section 7213 of this title.

(c) Calculation of enrollments

(1) In general

The calculation of relative enrollments under subsection (a)(1) 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 participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

(2) Rule of construction

Nothing in this subsection shall diminish the responsibility of each local educational agency 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) State criteria

Relative enrollments calculated under subsection (a)(1) 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 that serve the greatest numbers or percentages of—

(i) children living in areas with high concentrations of economically disadvantaged families;

(ii) children from economically disadvantaged families; or

(iii) children living in sparsely populated areas.

(B) Review of criteria

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 of the State's local educational agencies based on the factors set forth in subparagraph (A).

(d) Payment of allocations

(1) Distribution

From the funds paid to a State educational agency under this subpart for a fiscal year, the State educational agency shall distribute to each eligible local educational agency that has submitted an application as required by section 7215b of this title the amount of such local educational agency's allocation, as determined under subsection (a) of this section.

(2) Additional funds

(A) Use

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)(1) of this section may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct proportion to the number of children described in subsection (a)(1) of this section and enrolled in such schools within the area served by the local educational agency.

(B) Allocation

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 area served by the local educational agency in such manner.

(C) Rule of construction

Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

(Pub. L. 89–10, title V, § 5112, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1777.)

PRIOR PROVISIONS

A prior section 5112 of Pub. L. 89–10 was classified to section 7212 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 5112 of Pub. L. 89–10 was classified to section 3182 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7212, Pub. L. 89–10, title V, § 5112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, which related to evaluations, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 2—STATE PROGRAMS

§ 7213. State uses of funds

A State educational agency may use funds made available for State use under section 7211a(b) of this title only for one or more of the following:

(1) State administration of programs under this part, including—

(A) allocating funds to local educational agencies;

(B) planning, supervising, and processing State educational agency funds; and

(C) monitoring and evaluating programs under this part.

(2) Support for the planning, design, and initial implementation of charter schools as described in part B of this subchapter.

(3) Statewide education reform, school improvement programs and technical assistance and direct grants to local educational agencies, which assist such agencies under section 7215 of this title.

(4) Support for the design and implementation of high-quality yearly student assessments.

(5) Support for implementation of challenging State and local academic achievement standards.

(6) Support for arrangements that provide for independent analysis to measure and report on school district achievement.

(7) Support for the program described in section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(8) Support for programs to assist in the implementation of the policy described in section 9507[1] which may include payment of reasonable transportation costs and tuition costs for such students.

(Pub. L. 89–10, title V, § 5121, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1779.)

REFERENCES IN TEXT

Section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554), referred to in par. (7), 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 7213, Pub. L. 89–10, title V, § 5113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, related to authorization of appropriations and reservation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7231j of this title.

A prior section 5121 of Pub. L. 89–10 was classified to section 3191 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7213a. State applications

(a) Application requirements

Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

(1) Designation of the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part.

(2) Provision for an annual statewide summary of how assistance under this part is contributing toward improving student academic achievement or improving the quality of education for students.

[1] So in original. Pub. L. 89–10 does not contain a section 9507.

(3) Information setting forth the allocation of funds required to implement section 7217a of this title.

(4) A provision 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) An assurance that, apart from providing technical and advisory assistance and monitoring compliance with this part, 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 submitted under section 7215b of this title.

(6) An assurance that there is compliance with the specific requirements of this part.

(7) Provision for timely public notice and public dissemination of the information provided under paragraph (3).

(b) Statewide summary

The statewide summary referred to in subsection (a)(2) of this section shall be submitted annually to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State educational agency under section 7215b(b)(8) of this title. The State educational agency shall determine the format and content of such summary and may include in the summary statistical measures, such as the number of students served by each type of innovative assistance program described in section 7215 of this title and the number of teachers trained.

(c) Period of application

An application submitted by the State educational agency under subsection (a) of this section shall be for a period not to exceed 3 years. The agency may amend the application annually, as may be necessary to reflect changes, without filing a new application.

(d) Audit rule

A local educational agency that receives less than an average of $10,000 under this part for any 3 consecutive fiscal years shall not be audited more frequently than once every 5 years.

(Pub. L. 89–10, title V, § 5122, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1780.)

PRIOR PROVISIONS

A prior section 5122 of Pub. L. 89–10 was classified to section 3192 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 3—LOCAL INNOVATIVE EDUCATION PROGRAMS

§ 7215. Local uses of funds

(a) Innovative assistance programs

Funds made available to local educational agencies under section 7211a of this title shall be used for innovative assistance programs, which may include any of the following:

(1) Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with subchapter II of this chapter, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards.

(2) Technology activities related to the implementation of school-based reform efforts, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved.

(3) Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student academic achievement, and that are part of an overall education reform program.

(4) Promising education reform projects, including magnet schools.

(5) Programs to improve the academic achievement of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school.

(6) Programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs.

(7) Programs to provide for the educational needs of gifted and talented children.

(8) The planning, design, and initial implementation of charter schools as described in part B of this subchapter.

(9) School improvement programs or activities under sections 6316 and 6317 of this title.

(10) Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.

(11) Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing).

(12) Activities to promote, implement, or expand public school choice.

(13) Programs to hire and support school nurses.

(14) Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and

school personnel by qualified school-based mental health services personnel.

(15) Alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

(16) Programs to establish or enhance prekindergarten programs for children.

(17) Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school.

(18) Programs for cardiopulmonary resuscitation (CPR) training in schools.

(19) Programs to establish smaller learning communities.

(20) Activities that encourage and expand improvements throughout the area served by the local educational agency that are designed to advance student academic achievement.

(21) Initiatives to generate, maintain, and strengthen parental and community involvement.

(22) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

(23) Programs to provide same-gender schools and classrooms (consistent with applicable law).

(24) Service learning activities.

(25) School safety programs, including programs to implement the policy described in section 9507[1] and which may include payment of reasonable transportation costs and tuition costs for such students.

(26) Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels.

(27) Supplemental educational services, as defined in section 6316(e) of this title.

(b) Requirements

The innovative assistance programs described in subsection (a) of this section shall be—

(1) tied to promoting challenging academic achievement standards;

(2) used to improve student academic achievement; and

(3) part of an overall education reform strategy.

(c) Guidelines

Not later than 120 days after January 8, 2002, the Secretary shall issue guidelines for local educational agencies seeking funding for programs described in subsection (a)(23) of this section.

(Pub. L. 89–10, title V, § 5131, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1781.)

[1] So in original. Pub. L. 89–10 does not contain a section 9507.

PRIOR PROVISIONS

A prior section 5131 of Pub. L. 89–10 was classified to section 3211 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7215a. Administrative authority

In order to conduct the programs authorized by this part, each State educational agency or local educational agency may use funds made available under this part 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 V, § 5132, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1783.)

PRIOR PROVISIONS

A prior section 5132 of Pub. L. 89–10 was classified to section 3212 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7215b. Local applications

(a) Submission of application

A local educational agency may receive an allocation of funds under this part for any year for which the agency submits an application under this section that the State educational agency certifies under subsection (b) of this section.

(b) Certification and contents of application

The State educational agency shall certify each application submitted under subsection (a) of this section that includes each of the following:

(1) A description of locally identified needs relative to the purposes of this part and to the innovative assistance programs described in section 7215 of this title.

(2) A statement that sets forth the planned allocation of funds, based on the needs identified in subparagraph (A), among innovative assistance programs described in section 7215 of this title, a description of the programs that the local educational agency intends to support, and a description of the reasons for the selection of such programs.

(3) Information setting forth the allocation of such funds required to implement section 7217a of this title.

(4) A description of how assistance under this part will contribute to improving student academic achievement or improving the quality of education for students.

(5) An assurance that the local educational agency will comply with this part, including the provisions of section 7217a of this title concerning the participation of children enrolled in private nonprofit schools.

(6) An assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).

(7) Provision, in the allocation of funds for the assistance authorized by this part and in the planning, design, and implementation of

such innovative assistance programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with such other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

(8) An assurance that—

(A) programs carried out under this part will be evaluated annually;

(B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;

(C) the evaluation will describe how assistance under this part affected student academic achievement and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

(D) the evaluation will be submitted to the State educational agency at the time and in the manner requested by the State educational agency.

(9) If the local educational agency seeks funds under section 7215(a)(23) of this title, a description of how the agency will comply with the guidelines issued by the Secretary regarding same-gender schools and classrooms under section 7215(c) of this title.

(c) Period of application

An application submitted by a local educational agency under subsection (a) of this section may seek allocations under this part for a period not to exceed 3 fiscal years. The agency may amend the application annually, as may be necessary to reflect changes, without the filing of a new application.

(d) Local educational agency discretion

(1) In general

Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available to carry out this subpart will be divided among programs described in section 7215 of this title.

(2) Limitation

In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools served by the local educational agency.

(Pub. L. 89–10, title V, § 5133, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1783.)

PRIOR PROVISIONS

A prior section 5133 of Pub. L. 89–10 was classified to section 3213 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 4—GENERAL PROVISIONS

§ 7217. Maintenance of effort

(a) In general

Except as provided in subsection (b) of this section, a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines 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.

(b) Reduction of funds

The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) of this section by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

(c) Waiver

The Secretary may waive, for 1 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 educational agency.

(Pub. L. 89–10, title V, § 5141, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1784.)

PRIOR PROVISIONS

A prior section 5141 of Pub. L. 89–10 was classified to section 3221 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217a. 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 that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials—

(A) shall provide, as may be necessary, for the benefit of such children in such schools—

(i) 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

(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c) of this section); or

(B) 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 part.

(2) Other provisions for services

If no program 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 the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

(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 carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

(b) Equal expenditures

(1) In general

Expenditures for programs under subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

(2) Concentrated programs

Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs 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.

(c) Administrative requirements

(1) Funds and property

The control of funds provided under this part, 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 part, and a public agency shall administer such funds and property.

(2) Provision of services

Services provided under this part shall be provided by employees of a public agency or through contract by such a public agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

(d) Waiver

(1) State prohibition

If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c) of this section, the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

(2) Failure to comply

If the Secretary determines that a State educational agency 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 schools and secondary schools as required by subsections (a) through (c) of this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

(e) Withholding of allotment or allocation

Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2) of this section, the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

(f) Duration of 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 educational agency or local educational agency to meet the requirements of subsections (a) through (c) of this section.

(g) Payment from State allotment

When the Secretary arranges for services under subsection (d) of this section, the Secretary shall, after consultation with the appropriate public school 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 educational agency under this part.

(h) Review of determination

(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 educational agency 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 the action, as provided in section 2112 of title 28.

(3) Remand to Secretary

The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. 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 a petition under paragraph (2), 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 upon certiorari or certification, as provided in section 1254 of title 28.

(i) Prior determination

Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding January 8, 2002) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

(Pub. L. 89–10, title V, § 5142, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1785.)

REFERENCES IN TEXT

Title VI (as such title was in effect on the day preceding January 8, 2002), referred to in subsec. (i), means title VI of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, as amended, which was classified generally to subchapter VI (§ 7301 et seq.) of this chapter prior to the general amendment of subchapter VI by Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873.

PRIOR PROVISIONS

A prior section 5142 of Pub. L. 89–10 was classified to section 3222 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217b. Federal administration

(a) Technical assistance

The Secretary, upon request, shall provide technical assistance to State educational agencies and local educational agencies under this part.

(b) Rulemaking

The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

(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 programs under this part 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 V, § 5143, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1787.)

PRIOR PROVISIONS

A prior section 5143 of Pub. L. 89–10 was classified to section 3223 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217c. Supplement, not supplant

Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title V, § 5144, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5144 of Pub. L. 89–10 was classified to section 3224 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217d. Definitions

In this part:

(1) Local educational agency

The term ''local educational agency'' means a local educational agency or a consortium of such agencies.

(2) Public school

The term ''public school'' means a public elementary school or a public secondary school.

(3) School-age population

The term ''school-age population'' means the population aged 5 through 17.

(4) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title V, § 5145, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5145 of Pub. L. 89–10 was classified to section 3224a of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217e. Authorization of appropriations

There are authorized to be appropriated to carry out this part—

(1) $450,000,000 for fiscal year 2002;
(2) $475,000,000 for fiscal year 2003;
(3) $500,000,000 for fiscal year 2004;
(4) $525,000,000 for fiscal year 2005;
(5) $550,000,000 for fiscal year 2006; and
(6) $600,000,000 for fiscal year 2007.

(Pub. L. 89–10, title V, § 5146, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5146 of Pub. L. 89–10 was classified to section 3224b of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART B—PUBLIC CHARTER SCHOOLS

SUBPART 1—CHARTER SCHOOL PROGRAMS

§ 7221. 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 academic achievement, staff, and parents;

(3) expanding the number of high-quality charter schools available to students across the Nation; and

(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

(Pub. L. 89–10, title V, § 5201, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5201 of Pub. L. 89–10 was classified to section 7231 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221a. Program authorized

(a) In general

The Secretary may award grants to State educational agencies having applications approved pursuant to section 7221b 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 approved under section 7221b 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 7221b(c) of this title.

(c) Program periods

(1) Grants to States

Grants awarded to State educational agencies under this subpart shall be 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 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 7221c(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

In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 7221j of this title (other than funds reserved to carry out section 7221d(b) 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) are 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 student academic achievement 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 V, § 5202, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5202 of Pub. L. 89–10 was classified to section 7232 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221b. 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 a 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 academic achievement 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 eligible 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 eligible 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 7221a(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) Eligible applicant application

Each eligible applicant desiring a grant pursuant to section 7221a(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.

(d) Contents of eligible applicant 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;

(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 7221c(e) of this title; and

(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive the requirement of this paragraph in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

(Pub. L. 89–10, title V, § 5203, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1790.)

PRIOR PROVISIONS

A prior section 5203 of Pub. L. 89–10 was classified to section 7233 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221c. 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 7221b(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 in meeting State academic content standards and State student academic achievement standards;

(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 subsection (f)(6)(B) of this section, the quality of those activities and the likelihood that those activities will improve student academic 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 7221b(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 subsection (f)(6)(B) of this section, 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, shall award grants and 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 7221i(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—

(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

(A) State educational agency 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.

(B) Local administrative expenses

A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant local educational agency. Absent such approval, the local educational agency shall distribute all such subgrant funds to the eligible applicant without delay.

(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 funds 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 the eligible applicant 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 academic 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 academic achievement 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. 2501 et seq.] 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 V, § 5204, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1792.)

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.

PRIOR PROVISIONS

A prior section 5204 of Pub. L. 89–10 was classified to section 7234 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221d. 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 other evaluations or studies that include the evaluation of the impact of charter schools on student academic 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.

(3) 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 7221b 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.

(4) 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.

(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out one or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

(A) how, and the extent to which, the programs promote educational equity and excellence; and

(B) the extent to which charter schools supported through the programs are—

(i) held accountable to the public;

(ii) effective in improving public education; and

(iii) open and accessible to all students.

(b) Per-pupil facilities aid programs

(1) Definition of per-pupil facilities aid program

In this subsection, the term ''per-pupil facilities aid program'' means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

(A) that is dedicated solely for funding charter school facilities; or

(B) a portion of which is dedicated for funding charter school facilities.

(2) Grants

(A) In general

From the amount made available to carry out this subsection under paragraphs (2) and (3)(B) of section 7221j(b) of this title for any fiscal year, the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

(B) Period

The Secretary shall award grants under this subsection for periods of not more than 5 years.

(C) Federal share

The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

(ii) 80 percent in the second such year;

(iii) 60 percent in the third such year;

(iv) 40 percent in the fourth such year; and

(v) 20 percent in the fifth such year.

(3) Use of funds

(A) In general

A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

(B) Evaluations; technical assistance; dissemination

From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evalua-

tions, to provide technical assistance, and to disseminate information.

(C) Supplement, not supplant

Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per pupil[1] facilities aid programs, operations financing programs, or other programs, for charter schools.

(4) Requirements

(A) Voluntary participation

No State may be required to participate in a program carried out under this subsection.

(B) State law

To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

(i) is specified in State law; and

(ii) provides annual financing, on a per-pupil basis, for charter school facilities.

(5) Applications

To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(6) Priorities

In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 7221a(e) of this title.

(c) Rule of 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 V, § 5205, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1795.)

PRIOR PROVISIONS

A prior section 5205 of Pub. L. 89–10 was classified to section 7235 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221e. 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 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 V, § 5206, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1797.)

PRIOR PROVISIONS

A prior section 5206 of Pub. L. 89–10 was classified to section 7236 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221f. 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 V, § 5207, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

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 5207 of Pub. L. 89–10 was classified to section 7237 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221g. Records transfer

State educational agencies and local educational agencies, to the extent practicable,

[1] So in original. Probably should be "per-pupil".

shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 1401 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 V, § 5208, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798; amended Pub. L. 108–446, title III, § 305(g)(2), Dec. 3, 2004, 118 Stat. 2805.)

PRIOR PROVISIONS

A prior section 5208 of Pub. L. 89–10 was classified to section 7238 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2004—Pub. L. 108–446 substituted ''section 1401'' for ''section 1401(11)''.

§ 7221h. 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 V, § 5209, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

§ 7221i. Definitions

In this subpart:

(1) Charter school

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 exempt 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 schools 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) Developer

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) Eligible applicant

The term ''eligible applicant'' means a developer that has—

(A) applied to an authorized public chartering authority to operate a charter school; and

(B) provided adequate and timely notice to that authority under section 7221b(d)(3) of this title.

(4) Authorized public chartering agency

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 V, § 5210, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

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, 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.

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, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 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.

§ 7221j. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Reservation

From the amount appropriated under subsection (a) of this section for each fiscal year, the Secretary shall reserve—

(1) $200,000,000 to carry out this subpart, other than section 7221d(b) of this title; and

(2) any funds in excess of $200,000,000, that do not exceed $300,000,000, to carry out section 7221d(b) of this title; and

(3)(A) 50 percent of any funds in excess of $300,000,000 to carry out this subpart, other than section 7221d(b) of this title; and

(B) 50 percent of any funds in excess of $300,000,000 to carry out section 7221d(b) of this title.

(Pub. L. 89–10, title V, § 5211, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1799.)

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§ 7223. Purpose

The purpose of this subpart is to provide grants to eligible entities to permit the eligible entities 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 V, § 5221, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223a. Grants to eligible entities

(a) Grants

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 that have 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

(1) Evaluation of application

The Secretary shall evaluate each application submitted under section 7223b of this title, and shall determine whether the application is sufficient to merit approval.

(2) Distribution of grants

The Secretary shall award at least one grant to an eligible entity described in section 7223i(2)(A) of this title, at least one grant to an eligible entity described in section 7223i(2)(B) of this title, and at least one grant to an eligible entity described in section 7223i(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 made available under this subpart 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 subsection (b)(2) 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 V, § 5222, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223b. 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 submitted 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 eligible entity 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 eligible entity'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 eligible entity 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 the charter schools need to have adequate facilities; and

(7) such other information as the Secretary may reasonably require.

(Pub. L. 89–10, title V, § 5223, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223c. Charter school objectives

An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 7223d(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 V, § 5224, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1801.)

§ 7223d. Reserve account

(a) Use of funds

To assist charter schools to accomplish the objectives described in section 7223c 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 7223e of this title) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible 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 7223c of this title.

(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 7223c 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 established under subsection (a) of this section 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 V, § 5225, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1801.)

§ 7223e. 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 V, § 5226, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1802.)

§ 7223f. 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 annual report submitted under paragraph (1) 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 7223c 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 V, § 5227, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1802.)

§ 7223g. 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 V, § 5228, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7223h. 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 7223d(a) of this title if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this subpart, that the eligible entity has failed to make substantial progress in carrying out the purposes described in section 7223d(a) of this title; or

(2) all or a portion of the funds in a reserve account established by an eligible entity under section 7223d(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 7223d(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 7223d(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 V, § 5229, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

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.

§ 7223i. Definitions

In this subpart:

(1) Charter school

The term ''charter school'' has the meaning given such term in section 7221i of this title.

(2) Eligible entity

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 V, § 5230, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7223j. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $150,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal year 2003.

(Pub. L. 89–10, title V, § 5231, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

SUBPART 3—VOLUNTARY PUBLIC SCHOOL CHOICE PROGRAMS

§ 7225. Grants

(a) Authorization

From funds made available under section 7225g of this title to carry out this subpart, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the entities to establish or expand a program of public school choice (referred to in this subpart as a ''program'') in accordance with this subpart.

(b) Duration

Grants awarded under subsection (a) of this section may be awarded for a period of not more than 5 years.

(Pub. L. 89–10, title V, § 5241, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7225a. Uses of funds

(a) Required use of funds

An eligible entity that receives a grant under this subpart shall use the grant funds to provide students selected to participate in the program with transportation services or the cost of transportation to and from the public elementary schools and secondary schools, including charter schools, that the students choose to attend under the program.

(b) Permissible uses of funds

An eligible entity that receives a grant under this subpart may use the grant funds for—

(1) planning or designing a program (for not more than 1 year);

(2) the cost of making tuition transfer payments to public elementary schools or secondary schools to which students transfer under the program;

(3) the cost of capacity-enhancing activities that enable high-demand public elementary schools or secondary schools to accommodate transfer requests under the program;

(4) the cost of carrying out public education campaigns to inform students and parents about the program; and

(5) other costs reasonably necessary to implement the program.

(c) Nonpermissible uses of funds

An eligible entity that receives a grant under this subpart may not use the grant funds for school construction.

(d) Administrative expenses

The eligible entity may use not more than 5 percent of the funds made available through the

grant for any fiscal year for administrative expenses.

(Pub. L. 89–10, title V, § 5242, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225b. Applications

(a) Submission

An eligible entity that desires 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 require.

(b) Contents

An application submitted under subsection (a) of this section shall include—

(1) a description of the program for which the eligible entity seeks funds and the goals for such program;

(2) a description of how and when parents of students will be given the notice required under section 7225d(a)(2) of this title;

(3) a description of how students will be selected for the program;

(4) a description of how the program will be coordinated with, and will complement and enhance, other related Federal and non-Federal projects;

(5) if the program is to be carried out by a partnership, the name of each partner and a description of the partner's responsibilities; and

(6) such other information as the Secretary may require.

(Pub. L. 89–10, title V, § 5243, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225c. Priorities

In awarding grants under this subpart, the Secretary shall give priority to an eligible entity—

(1) whose program would provide the widest variety of choices to all students in participating schools;

(2) whose program would, through various choice options, have the most impact in allowing students in low-performing schools to attend higher-performing schools; and

(3) that is a partnership that seeks to implement an interdistrict approach to carrying out a program.

(Pub. L. 89–10, title V, § 5244, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225d. Requirements and voluntary participation

(a) Parent and community involvement and notice

In carrying out a program under this subpart, an eligible entity shall—

(1) develop the program with—

(A) the involvement of parents and others in the community to be served; and

(B) individuals who will carry out the program, including administrators, teachers, principals, and other staff; and

(2) provide to parents of students in the area to be served by the program with prompt notice of—

(A) the existence of the program;

(B) the program's availability; and

(C) a clear explanation of how the program will operate.

(b) Selection of students

An eligible entity that receives a grant under this subpart shall select students to participate in a program on the basis of a lottery, if more students apply for admission to the program than can be accommodated.

(c) Voluntary participation

Student participation in a program funded under this subpart shall be voluntary.

(Pub. L. 89–10, title V, § 5245, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225e. Evaluations

(a) In general

From the amount made available to carry out this subpart for any fiscal year, the Secretary may reserve not more than 5 percent—

(1) to carry out evaluations;

(2) to provide technical assistance; and

(3) to disseminate information.

(b) Evaluations

In carrying out the evaluations under subsection (a) of this section, the Secretary shall, at a minimum, address—

(1) how, and the extent to which, the programs promote educational equity and excellence;

(2) the characteristics of the students participating in the programs; and

(3) the effect of the programs on the academic achievement of students participating in the programs, particularly students who move from schools identified under section 6316 of this title to schools not so identified, and on the overall quality of participating schools and districts.

(Pub. L. 89–10, title V, § 5246, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225f. Definitions

In this subpart:

(1) Charter school

The term ''charter school'' has the meaning given such term in section 7221i of this title.

(2) Eligible entity

The term ''eligible entity'' means—

(A) one or more State educational agencies;

(B) one or more local educational agencies; or

(C) a partnership of—

(i) one or more—

(I) State educational agencies; and

(II) local educational agencies or other public, for-profit, or nonprofit entities; or

(ii) one or more—

(I) local educational agencies; and

(II) public, for-profit, or nonprofit entities.

(3) Low-performing school

The term ''low-performing school'' means a public elementary school or secondary school

that has failed to make adequate yearly progress, as described in section 6311(b) of this title, for two or more consecutive years.

(Pub. L. 89–10, title V, § 5247, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225g. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $100,000,000 for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title V, § 5248, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1806.)

PART C—MAGNET SCHOOLS ASSISTANCE

§ 7231. Findings and purpose

(a) Findings

Congress makes the following findings:

(1) Magnet schools are a significant part of the Nation's effort to achieve voluntary desegregation in our Nation's schools.

(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this chapter, with approximately 2,000,000 students nationwide attending such schools, of whom more than 65 percent are non-white.

(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

(4) It is in the best interests of the United States—

(A) to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) to ensure that all students have equitable access to a high quality education that will prepare all students to function well in a technologically oriented and a highly competitive economy comprised of people from many different racial and ethnic backgrounds; and

(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

(5) Desegregation efforts through magnet school programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students.

(b) 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 schools and secondary schools with substantial proportions of minority students, which shall include assisting in the efforts of the United States to achieve voluntary desegregation in public schools;

(2) the development and implementation of magnet school programs that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary schools and public secondary schools and public educational programs;

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending such schools;

(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding for the magnet schools is terminated; and

(6) ensuring that all students enrolled in the magnet school programs have equitable access to high quality education that will enable the students to succeed academically and continue with postsecondary education or productive employment.

(Pub. L. 89–10, title V, § 5301, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1806.)

PRIOR PROVISIONS

A prior section 7231, Pub. L. 89–10, title V, § 5201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, set forth short title and findings for the Women's Educational Equity Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 5301 of Pub. L. 89–10 was classified to section 7261 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231a. Definition

For the purpose of this part, the term ''magnet school'' means a public elementary school, public secondary school, public elementary education center, or public 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, § 5302, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

PRIOR PROVISIONS

A prior section 5302 of Pub. L. 89–10 was classified to section 7262 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231b. Program authorized

The Secretary, in accordance with this part, is authorized to award 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, § 5303, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

PRIOR PROVISIONS

A prior section 5303 of Pub. L. 89–10 was classified to section 7263 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231c. Eligibility

A local educational agency, or consortium of such agencies where appropriate, is eligible to receive a grant under this part to carry out the purpose 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 schools and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if a grant is awarded 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, § 5304, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

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.

§ 7231d. Applications and requirements

(a) Applications

An eligible local educational agency, or consortium of such agencies, desiring to receive a grant 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 application submitted under subsection (a) of this section shall include—

(1) a description of—

(A) how a grant awarded under this part will be used to promote desegregation, including how the proposed magnet school programs will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(B) the manner and extent to which the magnet school program will increase student academic achievement in the instructional area or areas offered by the school;

(C) how the applicant will continue the magnet school program after assistance under this part is no longer available, and, if applicable, an explanation of why magnet schools established or supported by the applicant with grant funds under this part cannot be continued without the use of grant funds under this part;

(D) how grant funds under this part will be used—

(i) to improve student academic achievement for all students attending the magnet school programs; and

(ii) to implement services and activities that are consistent with other programs under this chapter, and other Acts, as appropriate; and

(E) the criteria to be used in selecting students to attend the proposed magnet school program; and

(2) assurances that the applicant will—

(A) use grant funds under this part for the purposes specified in section 7231(b) of this title;

(B) employ highly qualified teachers in the courses of instruction assisted under this part;

(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 applicant or other personnel for whom the applicant has any administrative responsibility;

(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, 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 program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate the students.

(c) Special rule

No grant shall be awarded under this part unless the Assistant Secretary of Education 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, § 5305, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1808.)

PRIOR PROVISIONS

A prior section 5305 of Pub. L. 89–10 was classified to section 7265 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231e. Priority

In awarding grants 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 approved desegregation plans and the magnet school program for which the grant is sought;

(2) propose to carry out new magnet school programs, or significantly revise existing magnet school programs; and

(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination.

(Pub. L. 89–10, title V, § 5306, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1809.)

PRIOR PROVISIONS

A prior section 5306 of Pub. L. 89–10 was classified to section 7266 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231f. 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 of materials, equipment, and computers, necessary to conduct programs in magnet schools;

(3) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are highly qualified, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

(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 program to students who are enrolled in the school but who are not enrolled in the magnet school program; and

(B) further the purpose of this part;

(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended;

(6) to enable the local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

(7) to enable the local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all grades.

(b) Special rule

Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) of this section only if the activities are directly related to improving student academic achievement based on the State's challenging academic content standards and student academic achievement standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological, and professional skills.

(Pub. L. 89–10, title V, § 5307, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1809.)

PRIOR PROVISIONS

A prior section 5307 of Pub. L. 89–10 was classified to section 7267 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231g. Prohibition

Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

(Pub. L. 89–10, title V, § 5308, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

PRIOR PROVISIONS

A prior section 5308 of Pub. L. 89–10 was classified to section 7268 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231h. Limitations

(a) Duration of awards

A grant under this part shall be awarded for a period that shall not exceed 3 fiscal years.

(b) Limitation on planning funds

A local educational agency, or consortium of such agencies, may expend for planning (professional development shall not be considered to be planning for purposes of this subsection) not more than 50 percent of the grant funds received under this part for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

(c) Amount

No local educational agency, or consortium of such agencies, awarded a grant under this part shall receive more than $4,000,000 under this part for any 1 fiscal year.

(d) Timing

To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

(Pub. L. 89–10, title V, § 5309, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

§ 7231i. Evaluations

(a) Reservation

The Secretary may reserve not more than 2 percent of the funds appropriated under section 7231j(a) of this title for any fiscal year to carry out evaluations, provide technical assistance, and carry out dissemination projects with respect to magnet school programs 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 a high quality education;

(3) the extent to which magnet school programs lead to the elimination, reduction, or

prevention of minority group isolation in elementary schools 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.

(c) Dissemination

The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

(Pub. L. 89–10, title V, § 5310, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

§ 7231j. Authorization of appropriations; reservation

(a) Authorization

For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 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 in using such amounts in excess of $75,000,000 to awarding 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, § 5311, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

PRIOR PROVISIONS

Prior sections 7232 to 7238 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7232, Pub. L. 89–10, title V, § 5202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696, set forth purposes of former part B of this subchapter relating to gender equity. See section 7283a of this title.

Section 7233, 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, authorized gender equity programs. See section 7283b of this title.

Section 7234, Pub. L. 89–10, title V, § 5204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699, related to applications. See section 7283c of this title.

Section 7235, Pub. L. 89–10, title V, § 5205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699, set forth criteria and priorities for awards. See section 7283d of this title.

Section 7236, Pub. L. 89–10, title V, § 5206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700, related to submission of report. See section 7283e of this title.

Section 7237, Pub. L. 89–10, title V, § 5207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700, related to administration. See section 7283f of this title.

Section 7238, Pub. L. 89–10, title V, § 5208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, authorized appropriations. See section 7283g of this title.

PART D—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 7241. Authorization of appropriations

There are authorized to be appropriated to carry out this part the following amounts:

(1) $550,000,000 for fiscal year 2002.
(2) $575,000,000 for fiscal year 2003.
(3) $600,000,000 for fiscal year 2004.
(4) $625,000,000 for fiscal year 2005.
(5) $650,000,000 for fiscal year 2006.
(6) $675,000,000 for fiscal year 2007.

(Pub. L. 89–10, title V, § 5401, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1811.)

SUBPART 1—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 7243. Programs authorized

(a) Authorization

The Secretary is authorized to support nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and help all children meet challenging State academic content and student academic achievement standards. The Secretary may carry out such programs directly, or through grants to, or contracts with—

(1) States or local educational agencies;
(2) institutions of higher education; and
(3) other public and private agencies, organizations, and institutions.

(b) Uses of funds

Funds made available under section 7241 of this title to carry out this subpart may be used for any of the following programs:

(1) Activities to promote systemic education reform at the State and local levels, including scientifically based research, development, and evaluation designed to improve—

(A) student academic achievement at the State and local level; and

(B) strategies for effective parent and community involvement.

(2) Programs at the State and local levels that are designed to yield significant results, including programs to explore approaches to public school choice and school-based decisionmaking.

(3) Recognition programs, which may include financial awards to States, local educational agencies, and schools that have made the greatest progress, based on the Secretary's determination or on a nomination by the State in which the school is located (or in the case of a Bureau funded school, by the Secretary of the Interior) in—

(A) improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups; and

(B) closing the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 6311 of this title.

(4) Scientifically based studies and evaluations of education reform strategies and inno-

vations, and the dissemination of information on the effectiveness of such strategies and innovations.

(5) Identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools, including programs to evaluate the effectiveness of using the best practices of exemplary or Blue Ribbon Schools to improve academic achievement.

(6) Activities to support Scholar-Athlete Games programs, including the World Scholar-Athlete Games and the U.S. Scholar-Athlete Games.

(7) Programs to promote voter participation in American elections through programs, such as the National Student/Parent Mock Election and Kids Voting USA.

(8) Demonstrations relating to the planning and evaluation of the effectiveness of programs under which local educational agencies or schools contract with private management organizations to reform a school or schools.

(9) Other programs that meet the purposes of this chapter.

(c) Basis of awards

The Secretary is authorized to—

(1) make awards under this subpart on the basis of competitions announced by the Secretary; and

(2) support meritorious unsolicited proposals for awards under this subpart.

(d) Effectiveness of programs

The Secretary shall ensure that programs supported under this subpart are designed so that their effectiveness is readily ascertainable, and shall ensure that such effectiveness is assessed using rigorous, scientifically based research and evaluations.

(Pub. L. 89–10, title V, § 5411, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1811.)

§ 7243a. Applications

(a) Submission

To be eligible for an award under this subpart, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents

Each application submitted under subsection (a) of this section shall—

(1) establish clear objectives, which are based on scientifically based research, for the proposed program; and

(2) describe the activities the applicant will carry out in order to meet the objectives described in paragraph (1).

(c) Peer review

The Secretary shall use a peer review process in reviewing applications for awards under this subpart and in recognizing States, local educational agencies, and schools under section 7243(b)(3) of this title, only if funds are used for such recognition programs. The Secretary may use funds appropriated under this subpart for the cost of such peer review.

(Pub. L. 89–10, title V, § 5412, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1812.)

§ 7243b. Program requirements

(a) Evaluations

A recipient of an award under this subpart shall—

(1) evaluate the effectiveness of the program funded under the award in achieving the objectives stated in applications submitted under section 7243a of this title; and

(2) report to the Secretary such information as may be required to determine the effectiveness of such program, including evidence of progress toward meeting such objectives.

(b) Dissemination of evaluation results

The Secretary shall provide for the dissemination of the evaluations of programs funded under this subpart by making the evaluations publicly available upon request, and shall provide public notice that the evaluations are so available.

(c) Matching funds

The Secretary may require recipients of awards under this subpart to provide matching funds from non-Federal sources, and shall permit the recipients to match funds in whole or in part with in-kind contributions.

(d) Special rule for recognition programs

The application requirements of section 7243a(b) of this title, and the evaluation requirements of subsections (a) and (b) of this section, do not apply to recognition programs under section 7243(b)(3) of this title.

(Pub. L. 89–10, title V, § 5413, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1812.)

§ 7243c. Studies of national significance

(a) Studies

The Secretary shall conduct the following studies of national significance:

(1) Unhealthy public school buildings

A study regarding the health and learning impacts of environmentally unhealthy public school buildings on students and teachers. The study shall include the following information:

(A) The characteristics of those public elementary school and secondary school buildings that contribute to unhealthy school environments.

(B) The health and learning impacts of environmental[1] unhealthy public school buildings on students that are attending or that have attended such schools.

(C) Recommendations to Congress on how to assist schools that are out of compliance with Federal or State health and safety codes, and a cost estimate of bringing up environmentally unhealthy public school buildings to minimum Federal health and safety building standards.

(2) Exposure to violent entertainment

A study regarding how exposure to violent entertainment (such as in movies, music, television, Internet content, video games, and arcade games) affects children's cognitive development and educational achievement.

[1] So in original. Probably should be "environmentally".

(3) Sexual abuse in schools

A study regarding the prevalence of sexual abuse in schools, including recommendations and legislative remedies for addressing the problem of sexual abuse in schools.

(b) Completion date

The studies under subsection (a) of this section shall be completed not later than 18 months after January 8, 2002.

(c) Public dissemination

The Secretary shall make the study conducted under subsection (a)(1) of this section available to the public through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department.

(Pub. L. 89–10, title V, § 5414, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1813.)

SUBPART 2—ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS

§ 7245. Elementary and secondary school counseling programs

(a) Grants authorized

(1) In general

The Secretary is authorized to award grants to local educational agencies to enable such agencies to establish or expand elementary school and secondary school counseling programs that comply with the requirements of subsection (c)(2) of this section.

(2) Special consideration

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 children in the schools served by the local educational agency, in part by providing information on current ratios of students to school counselors, students to school social workers, and students to school psychologists;

(B) propose the most promising and innovative approaches for initiating or expanding 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 local educational agencies located in urban, rural, and suburban areas.

(4) Duration

A grant under this section shall be awarded for a period not to exceed 3 years.

(5) Maximum grant

A grant awarded under this section shall not exceed $400,000 for any fiscal year.

(6) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

(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 school population to be targeted by the program, the particular counseling 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 how the local educational agency will involve community groups, social service agencies, and other public and private entities in collaborative efforts to enhance the program and promote school-linked services integration;

(E) document that the local educational agency has the personnel qualified to develop, implement, and administer the program;

(F) describe how diverse cultural populations, if applicable, will be served through the program;

(G) assure that the funds made available under this subpart for any fiscal year will be used to supplement, and not supplant, any other Federal, State, or local funds used for providing school-based counseling and mental health services to students; and

(H) assure that the applicant will appoint an advisory board composed of interested parties, including parents, teachers, school administrators, counseling services providers described in subsection (c)(2)(D) of this section, and community leaders, to advise the local educational agency on the design and implementation of the program.

(c) Use of funds

(1) In general

The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to initiate or expand elementary school or secondary school counseling programs that comply with the requirements of paragraph (2).

(2) Requirements

Each program funded under this section shall—

(A) be comprehensive in addressing the counseling 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 and secondary schools of the local educational agency;

(D) expand counseling services through qualified school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, or academic and career planning, or to improve peer interaction;

(F) provide counseling services in settings that meet the range of student needs;

(G) include in-service training appropriate to the activities funded under this chapter for teachers, instructional staff, and appropriate school personnel, including in-service training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, and child and adolescent psychiatrists;

(H) involve parents of participating students in the design, implementation, and evaluation of the counseling program;

(I) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program and promote school-linked integration of services;

(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

(K) ensure a team approach to school counseling in the schools served by the local educational agency by working toward ratios recommended by the American School Health Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 1,000 students; and

(L) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time counseling students or in other activities directly related to the counseling process.

(d) Limitation on administrative costs

Not more than 4 percent of the amounts made available under this section for any fiscal year may be used for administrative costs to carry out this section.

(e) Definitions

For the purpose of this section—

(1) the term ''child and adolescent psychiatrist'' means an individual who—

(A) possesses State medical licensure; and

(B) has completed residency training programs in both general psychiatry and child and adolescent psychiatry;

(2) the term ''other qualified psychologist'' means an individual who has demonstrated competence in counseling children in a school setting and who—

(A) is licensed in psychology by the State in which the individual works; and

(B) practices in the scope of the individual's education, training, and experience with children in school settings;

(3) the term ''school counselor'' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

(A) is licensed by the State or certified 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;

(4) the term ''school psychologist'' means an individual who—

(A) has completed 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 are in the school setting;

(B) is licensed or certified in school psychology by 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; and

(5) the term ''school social worker'' means an individual who—

(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and

(B)(i) is licensed or certified by the State in which services are provided; or

(ii) in the absence of such State licensure or certification, possesses a national credential or certification as a school social work specialist granted by an independent professional organization.

(f) Report

Not later than 2 years after assistance is made available to local educational agencies under subsection (c) of this section, the Secretary shall make publicly available a report—

(1) evaluating the programs assisted pursuant to each grant under this subpart; and

(2) outlining the information from local educational agencies regarding the ratios of students to—

(A) school counselors;

(B) school social workers; and

(C) school psychologists.

(g) Special rule

(1) Amount equals or exceeds $40,000,000

If the amount of funds made available by the Secretary for this subpart equals or exceeds $40,000,000, the Secretary shall award not less than $40,000,000 in grants to local educational agencies to enable the agencies to establish or expand counseling programs in elementary schools.

(2) Amount less than $40,000,000

If the amount of funds made available by the Secretary for this subpart is less than

$40,000,000, the Secretary shall award grants to local educational agencies only to establish or expand counseling programs in elementary schools.

(Pub. L. 89–10, title V, § 5421, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1814.)

SUBPART 3—PARTNERSHIPS IN CHARACTER EDUCATION

§ 7247. Partnerships in character education program

(a) Program authorized

(1) In general

The Secretary is authorized to award grants to eligible entities for the design and implementation of character education programs that—

(A) are able to be integrated into classroom instruction and to be consistent with State academic content standards; and

(B) are able to be carried out in conjunction with other educational reform efforts.

(2) Eligible entity

In this section, the term ''eligible entity'' means—

(A) a State educational agency in partnership with—

(i) one or more local educational agencies; or

(ii) one or more—

(I) local educational agencies; and

(II) nonprofit organizations or entities, including an institution of higher education;

(B) a local educational agency or consortium of local educational agencies; or

(C) a local educational agency in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

(3) Duration

Each grant under this section shall be awarded for a period not to exceed 5 years, of which the eligible entity may not use more than 1 year for planning and program design.

(4) Amount of grants for State educational agencies

Subject to the availability of appropriations, the amount of a grant made by the Secretary to a State educational agency under this section shall not be less than $500,000 if the State educational agency—

(A) is in a partnership described in paragraph (2)(A); and

(B) meets such requirements as the Secretary may establish under this section.

(b) Contracts under program

(1) Evaluation

Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of—

(A) evaluating the program for which the assistance is made available;

(B) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c) of this section.

(2) Materials and program development

Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for assistance in—

(A) developing secular curricula, materials, teacher training, and other activities related to character education; and

(B) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

(c) Elements of character

(1) Selection

(A) In general

Each eligible entity awarded a grant under this section may select the elements of character that will be taught under the program for which the grant was awarded.

(B) Consideration of views

In selecting elements of character under subparagraph (A), the eligible entity shall consider the views of the parents of the students to be taught under the program and the views of the students.

(2) Example elements

Elements of character selected under this subsection may include any of the following:

(A) Caring.

(B) Civic virtue and citizenship.

(C) Justice and fairness.

(D) Respect.

(E) Responsibility.

(F) Trustworthiness.

(G) Giving.

(H) Any other elements deemed appropriate by the eligible entity.

(d) Use of funds by State educational agency recipients

Of the total funds received in any fiscal year under this section by an eligible entity that is a State educational agency—

(1) not more than 3 percent of such funds may be used for administrative purposes; and

(2) the remainder of such funds may be used for—

(A) collaborative initiatives with and between local educational agencies and schools;

(B) the preparation or purchase of materials, and teacher training;

(C) providing assistance to local educational agencies, schools, or institutions of higher education; and

(D) technical assistance and evaluation.

(e) Application

(1) In general

Each eligible entity 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) Required information

Each application for a grant under this section shall include (together with any other information that the Secretary may require) information that—

(A) demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research;

(B) describes any partnerships or collaborative efforts among the organizations and entities of the eligible entity;

(C) describes the activities that will be carried out with the grant funds and how such activities will meet the objectives described in subparagraph (A), including—

(i) how parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program;

(ii) curriculum and instructional practices that will be used or developed; and

(iii) methods of teacher training and parent education that will be used or developed;

(D) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including—

(i) broader educational reforms that are being instituted by the eligible entity or its partners; and

(ii) State academic content standards;

(E) in the case of an eligible entity that is a State educational agency, describes how the State educational agency—

(i) will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs; and

(ii) will assist other interested local educational agencies that are not members of the original partnership in designing and establishing character education programs;

(F) describes how the eligible entity will evaluate the success of its program—

(i) based on the objectives described in subparagraph (A); and

(ii) in cooperation with any national evaluation conducted pursuant to subsection (h)(2)(B)(iii) of this section; and

(G) assures that the eligible entity annually will provide to the Secretary such information as may be required to determine the effectiveness of the program.

(f) Selection of recipients

(1) Peer review

(A) In general

In selecting eligible entities to receive grants under this section from among the applicants for such grants, the Secretary shall use a peer review process that includes the participation of experts in the field of character education and development.

(B) Use of funds

The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

(2) Selection criteria

Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

(A) the extent to which the program fosters character in students and the potential for improved student academic achievement;

(B) the extent and ongoing nature of parental, student, and community involvement;

(C) the quality of the plan for measuring and assessing success; and

(D) the likelihood that the objectives of the program will be achieved.

(3) Equitable distribution

In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas.

(g) Participation by private school children and teachers

Each eligible entity that receives a grant under this section shall provide, to the extent feasible and appropriate, for the participation in programs and activities under this section of students and teachers in private elementary schools and secondary schools.

(h) Evaluation and program development

(1) State and local reporting and evaluation

Each eligible entity receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this section, including its impact on students, students with disabilities (including those with mental or physical disabilities), teachers, administrators, parents, and others—

(A) by the end of the second year of the program; and

(B) not later than 1 year after completion of the grant period.

(2) National research, dissemination, and evaluation

(A) In general

(i) Authorization

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation ac-

tivities that support or inform State and local character education programs.

(ii) Reservation of funds

The Secretary shall reserve not more than 5 percent of the funds made available under this section to carry out this paragraph.

(B) Uses

Funds made available under subparagraph (A) may be used for the following:

(i) Conducting research and development activities that focus on matters such as—

(I) the extent to which schools are undertaking character education initiatives;

(II) the effectiveness of instructional models for all students, including students with disabilities (including those with mental or physical disabilities);

(III) materials and curricula for use by programs in character education;

(IV) models of professional development in character education;

(V) the development of measures of effectiveness for character education programs (which may include the factors described in paragraph (3)); and

(VI) the effectiveness of State and local programs receiving funds under this section.

(ii) Providing technical assistance to State and local programs, particularly on matters of program evaluation.

(iii) Conducting evaluations of State and local programs receiving funding under this section, that may be conducted through a national clearinghouse under clause (iv).

(iv) Compiling and disseminating, through a national clearinghouse or other means—

(I) information on model character education programs;

(II) information about high quality character education materials and curricula;

(III) research findings in the area of character education and character development; and

(IV) any other information that will be useful to character education program participants nationwide, including educators, parents, and administrators.

(C) Partnerships

In carrying out national activities under this paragraph, the Secretary may enter into partnerships with national nonprofit character education organizations and institutions of higher education with expertise and successful experience in implementing—

(i) character education programs that had an effective impact on schools, students, students with disabilities (including those with mental or physical disabilities), and teachers; or

(ii) character education program evaluation and research.

(D) Partnership for activities under subparagraph (B)(iv)

In carrying out national activities under subparagraph (B)(iv), the Secretary may enter into a partnership with a national nonprofit character education organization that will disseminate information to educators, parents, administrators, and others nationwide, including information about the range of model character education programs, materials, and curricula.

(E) Report

Each entity awarded a grant or entering into a contract or cooperative agreement under this paragraph shall submit an annual report to the Secretary that—

(i) describes the entity's progress in carrying out research, development, dissemination, evaluation, and technical assistance under this paragraph;

(ii) identifies unmet and future information needs in the field of character education; and

(iii) if applicable, describes the progress of the entity in carrying out the requirements of subparagraph (B)(iv), including a listing of—

(I) the number of requests for information received by the entity in the course of carrying out such requirements;

(II) the types of organizations making such requests; and

(III) the types of information requested.

(3) Factors

Factors that may be considered in evaluating the success of programs funded under this section include the following:

(A) Discipline issues.

(B) Student academic achievement.

(C) Participation in extracurricular activities.

(D) Parental and community involvement.

(E) Faculty and administration involvement.

(F) Student and staff morale.

(G) Overall improvements in school climate for all students, including students with disabilities (including those with mental or physical disabilities).

(i) Permissive match

(1) In general

The Secretary may require eligible entities to match funds awarded under this section with non-Federal funds, except that the amount of the match may not exceed the amount of the grant award.

(2) Sliding scale

The amount of a match under paragraph (1) shall be established based on a sliding scale that takes into account—

(A) the poverty of the population to be targeted by the eligible entity; and

(B) the ability of the eligible entity to obtain funding for the match.

(3) In-kind contributions

The Secretary shall permit eligible entities to match funds in whole or in part with in-kind contributions.

(4) Consideration

Notwithstanding this subsection, the Secretary in making awards under this section shall not consider the ability of an eligible entity to match funds.

(Pub. L. 89–10, title V, § 5431, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1817.)

SUBPART 4—SMALLER LEARNING COMMUNITIES

§ 7249. Smaller learning communities

(a) Grant authority

The Secretary is authorized to award grants to local educational agencies to enable the agencies to create a smaller learning community or communities.

(b) Application

Each local educational agency 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 require. The application shall include descriptions of the following:

(1) Strategies and methods the local educational agency 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 smaller 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 subpart.

(7) The objectives of the activities assisted under this subpart, including a description of how such activities will better enable all students to reach challenging State academic content standards and State student academic achievement standards.

(8) The methods by which the local educational agency will assess progress in meeting the objectives described in paragraph (7).

(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 remainder of the school.

(10) 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 local educational agency will coordinate or use funds provided under this subpart with other funds provided under this chapter or other Federal laws.

(12) The grade levels or ages of students who will participate in the smaller learning community or communities.

(13) The method of placing students in the smaller learning community or communities, such that students are not placed according to ability or any other measure, but are placed at random or by their own choice, and not pursuant to testing or other judgments.

(c) Authorized activities

Funds under this section may be used for one or more of the following:

(1) To study—

(A) the feasibility of creating the smaller learning community or communities; and

(B) effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities.

(2) To research, develop, and implement—

(A) strategies for creating the smaller learning community or communities; and

(B) strategies for effective and innovative changes in curriculum and instruction, geared to challenging State academic content standards and State student academic achievement standards.

(3) To provide professional development for school staff in innovative teaching methods that—

(A) challenge and engage students; and

(B) will be used in the smaller learning community or communities.

(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 and provide links between students and their community.

(Pub. L. 89–10, title V, § 5441, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1823.)

SUBPART 5—READING IS FUNDAMENTAL—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 7251. Inexpensive book distribution program for reading motivation

(a) Purpose

The purpose of this subpart is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading and to motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources and shall assign the highest priority to serving the youngest and neediest children in the United States.

(b) 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 young and school-age children, that motivate children to read.

(c) Requirements of contract

Any contract entered into under subsection (b) of this section shall contain each of the following:

(1) A provision 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 by loan, to children from birth through secondary school age, including children in family literacy programs.

(2) A provision that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs.

(3) A provision 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 the following:

(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.

ildren[1] without access to libraries.

(H) Institutionalized or incarcerated children.

(I) Children whose parents are institutionalized or incarcerated.

(4) A provision that the contractor will provide such training and technical assistance to subcontractors as may be necessary to carry out the purpose of this subpart.

(5) A provision that the contractor will annually report to the Secretary the number, and a description, of programs funded under paragraph (3).

(6) Such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(d) 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.

(e) Special rules for certain subcontractors

(1) Funds from other Federal sources

Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3) of this section, may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

(2) Waiver authority

Notwithstanding subsection (c) of this section, the contractor may waive, in whole or in part, the requirement in subsection (c)(1) of this section for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) of this section shall not apply.

(f) Multi-year contracts

The contractor may enter into a multi-year subcontract under this section, if—

(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

(2) the subcontract does not undermine the finances of the national program.

(g) Federal share defined

In this section, the term ''Federal share'' means, with respect to the cost to a subcontractor of purchasing books to be paid for 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.

(Pub. L. 89–10, title V, § 5451, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1824.)

SUBPART 6—GIFTED AND TALENTED STUDENTS

§ 7253. Short title

This subpart may be cited as the ''Jacob K. Javits Gifted and Talented Students Education Act of 2001''.

(Pub. L. 89–10, title V, § 5461, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253a. Purpose

The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students.

(Pub. L. 89–10, title V, § 5462, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253b. Rule of construction

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simul-

[1] So in original. Probably should be ''(G) Children''.

taneously with students with similar educational needs, in the same educational settings, where appropriate.

(Pub. L. 89–10, title V, § 5463, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253c. Authorized programs

(a) Establishment of program

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) is authorized to make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 450b of title 25) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart 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 seeking assistance 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. 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) Use of funds

Programs and projects assisted under this section may include each of the following:

(1) Conducting—

(A) scientifically based 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 purpose of this subpart.

(2) Carrying out professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

(3) Establishing and operating 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 (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education).

(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

(5) Carrying out programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

(7) Providing funds for challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that would not otherwise have the resources to provide such course work.

(c) Special rule

To the extent that funds appropriated to carry out this subpart for a fiscal year beginning with fiscal year 2002 exceed such funds appropriated for fiscal year 2001, the Secretary shall use such excess funds to award grants, on a competitive basis, to State educational agencies, local educational agencies, or both, to implement activities described in subsection (b) of this section.

(d) Center for research and development

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center for 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 agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in subsection (b) of this section.

(2) Director

The National Center shall be headed by 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 institutions of higher education, State educational agencies, local educational agencies, or other public or private agencies and organizations.

(3) Funding

The Secretary may use not more than 30 percent of the funds made available under this subpart for fiscal year 2001 to carry out this subsection.

(e) Coordination

Scientifically based research activities supported under this subpart—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by such Institute; and

(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Institute.

(Pub. L. 89–10, title V, § 5464, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826;

amended Pub. L. 107–279, title IV, § 404(d)(5)(C), (6), Nov. 5, 2002, 116 Stat. 1986.)

AMENDMENTS

2002—Subsec. (e)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''such Institute'' for ''such Office''.

Subsec. (e)(2). Pub. L. 107–279, § 404(d)(6), substituted ''such Institute'' for ''such Office''.

§ 7253d. Program priorities

(a) General priority

In carrying out this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

(2) assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods.

(b) Service priority

The Secretary shall ensure that not less than 50 percent of the applications approved under section 7253c(a)(2) of this title in a fiscal year address the priority described in subsection (a)(2) of this section.

(Pub. L. 89–10, title V, § 5465, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1828.)

§ 7253e. General provisions

(a) Participation of private school children and teachers

In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

(b) Review, dissemination, and evaluation

The Secretary shall—

(1) use a peer review process in reviewing applications under this subpart;

(2) ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State educational agencies, local educational agencies, and other appropriate organizations, including nonprofit private organizations; and

(3) evaluate the effectiveness of programs under this subpart in accordance with section 7941 of this title, 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 2 years after January 8, 2002.

(c) Program operations

The Secretary shall ensure that the programs under this subpart 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 and coordinate the programs authorized under this subpart;

(2) 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;

(3) assist the Assistant Secretary for Educational Research and Improvement in identifying research priorities that reflect the needs of gifted and talented students; and

(4) shall[1] disseminate, and consult on, the information developed under this subpart with other offices within the Department.

(Pub. L. 89–10, title V, § 5466, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1828.)

SUBPART 7—STAR SCHOOLS PROGRAM

§ 7255. Short title

This subpart may be cited as the ''Star Schools Act''.

(Pub. L. 89–10, title V, § 5471, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1829.)

PRIOR PROVISIONS

Provisions naming former part B (§ 6891 et seq.) of this subchapter as the ''Star Schools Act'' were contained in section 6891 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7255a. Purposes

The purposes of this subpart are the following:

(1) To encourage improved instruction in mathematics, science, and foreign languages as well as other subjects (such as literacy skills and vocational education).

(2) To serve underserved populations, including disadvantaged, illiterate, limited English proficient populations, and individuals with disabilities through a Star Schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships—

(A) to develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment;

(B) to develop and acquire educational and instructional programming; and

(C) to obtain technical assistance for the use of such facilities and instructional programming.

(Pub. L. 89–10, title V, § 5472, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1829.)

§ 7255b. Grant program authorized

(a) Authorization

The Secretary, in conjunction with the Office of Educational Technology, is authorized to make grants, in accordance with the provisions

[1] So in original. The word ''shall'' probably should not appear.

of this subpart, to eligible entities to pay the Federal share of the cost of the following:

(1) Development, construction, acquisition, maintenance, and operation of telecommunications facilities and equipment.

(2) Development and acquisition of live, interactive instructional programming.

(3) Development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, and ongoing, in-class instruction.

(4) Establishment of teleconferencing facilities and resources for making interactive training available to teachers.

(5) Obtaining technical assistance.

(6) Coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

(b) Duration and amount

(1)[1] In general

A grant under this section may not exceed—

(A) 5 years in duration (subject to subsection (c) of this section); and

(B) $10,000,000 in any single fiscal year.

(c) Renewal

(1) In general

Grants awarded under subsection (a) of this section may be renewed for a single additional period of 3 years.

(2) Continuing eligibility

In order to be eligible to receive a grant renewal under this subsection, a grant recipient shall demonstrate, to the satisfaction of the Secretary, in an addendum to its application submitted under section 7255c of this title, that the grant recipient will—

(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this subpart for the previous grant period; and

(B) use all grant funds received under this subpart for the 3 year renewal 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.

(3) Supplement, not supplant

Grant funds received under this subsection shall be used to supplement, and not supplant, services provided by the grant recipient under this subpart in the previous fiscal year.

(d) Reservations

(1) Instructional programming

At least 25 percent of the funds made available to the Secretary for any fiscal year under this subpart shall be used for the cost of instructional programming.

(2) Local educational agency assistance

At least 50 percent of the funds available in any fiscal year under this subpart shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies that are eligible to receive assistance under part A of subchapter I of this chapter.

(e) Federal share

(1) Amount

The Federal share of the cost of projects funded under this section shall not exceed the following amounts:

(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this subpart.

(B) 60 percent for the third and fourth such years.

(C) 50 percent for the fifth such year.

(2) Reduction or waiver

The Secretary may reduce or waive the corresponding non-Federal share under paragraph (1) upon a showing of financial hardship.

(f) Required local educational agency participation

The Secretary is authorized to make a grant under this section to any eligible entity, if at least one local educational agency is participating in the proposed program.

(g) Assistance obtaining satellite time

The Secretary may assist recipients of grants made under this section in acquiring satellite time, where appropriate, as economically as possible.

(Pub. L. 89–10, title V, § 5473, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1830.)

§ 7255c. Applications

(a) Submission

Each eligible entity that desires to receive a grant under section 7255b 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) Contents

An application submitted under subsection (a) of this section shall include each of the following:

(1) A description of how the proposed program will assist all students to have an opportunity to meet challenging State academic achievement standards, how such program will assist State and local educational reform efforts, and how such program will contribute to creating a high-quality system of educational development.

(2) A description of 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

[1] So in original. No par. (2) has been enacted.

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, including 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, a description of the types of programming that will be developed to enhance instruction and training and provide an assurance 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) A description of 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) A description of 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) A description of 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 subpart.

(7) A description of how existing telecommunications equipment, facilities, and services, where available, will be used.

(8) An assurance 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) An assurance that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary schools 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) An assurance that the applicant will use the funds provided under this subpart to supplement, and not supplant, funds available for the purposes of this subpart.

(11) A description of how funds received under this subpart will be coordinated with funds received for educational technology in the classroom.

(12) A description of 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 models of exemplary academic 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) A description of how the proposed program as a whole will be financed and how arrangements for future financing will be developed before the program expires.

(14) An assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary schools 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) An assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this subpart.

(16) Such additional assurances as the Secretary may reasonably require.

(c) Approval

In approving applications submitted under subsection (a) of this section for grants under section 7255b of this title, the Secretary shall—

(1) to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.

(2) give priority to applications describing programs that—

(A) propose high-quality plans, will provide instruction consistent with State academic content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

(B) will provide services to programs serving adults, especially parents, with low levels of literacy;

(C) will serve schools with significant numbers of children counted for the purposes of part A of subchapter I of this chapter;

(D) ensure that the eligible entity will—

(i) 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;

(ii) 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;

(iii) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

(iv) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

(v) provide instruction for students, teachers, and parents;

(vi) serve a multistate area; and

(vii) give priority to the provision of equipment and linkages to isolated areas; and

(E) 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.

(Pub. L. 89–10, title V, § 5474, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1831.)

§ 7255d. Other grant assistance

(a) Special statewide network

(1) In general

The Secretary, in conjunction with the Office of Educational Technology, may provide assistance to a statewide telecommunications network 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) Matching 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 is authorized to provide assistance, on a competitive basis, to a local educational agency, or a consortium of such agencies, 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 schools 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) 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 develop and operate one or more programs that 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 subsection shall be designed to advance adult literacy, secondary school completion, and the acquisition of specified competency by the end of the 12th grade.

(2) Applications

Each eligible entity desiring a grant under this subsection shall submit an application to the Secretary. The application shall include each of the following:

(A) A demonstration 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) An assurance 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) To the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded programs.

(D) An assurance that the applicant has the technological and substantive experience to carry out the program.

(E) Such additional assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title V, § 5475, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1834.)

§ 7255e. Administrative provisions

(a) Leadership, evaluation, and peer review

(1) Reservation of funds

The Secretary may reserve not more than 5 percent of the amount made available to carry out this subpart for a fiscal year for national leadership, evaluation, and peer review activities, which the Secretary may carry out directly or through grants, contracts, and cooperative agreements.

(2) Leadership

Funds reserved for leadership activities under paragraph (1) may be used for—

(A) disseminating information, including lists and descriptions of services available from grant recipients under this subpart; and

(B) other activities designed to enhance the quality of distance learning activities nationwide.

(3) Evaluation

Funds reserved for evaluation activities under paragraph (1) may be used to conduct independent evaluations of the activities assisted under this subpart and of distance learning in general, including—

(A) analyses of distance learning efforts (including such efforts that are, or are not, assisted under this subpart); and

(B) comparisons of the effects (including student outcomes) of different technologies in distance learning efforts.

(4) Peer review

Funds reserved for peer review activities under paragraph (1) may be used for peer review of—

(A) applications for grants under this subpart; and

(B) activities assisted under this subpart.

(b) 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 subpart with the activities of such department or agency relating to a telecommunications network for educational purposes.

(c) Funds from other agencies

The Secretary may accept funds from other Federal departments or agencies to carry out the purposes of this subpart, including funds for the purchase of equipment.

(d) Availability of funds

Funds made available to carry out this subpart shall remain available until expended.

(e) Closed captioning and descriptive video

The Secretary shall encourage each entity receiving funds under this subpart to provide—

(1) closed captioning of the verbal content of the entity's programming, as appropriate; and

(2) descriptive video of the visual content of the entity's programming, as appropriate.

(Pub. L. 89–10, title V, § 5476, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1835.)

§ 7255f. Definitions

In this subpart:

(1) Educational institution

The term ''educational institution'' means an institution of higher education, a local educational agency, or a State educational agency.

(2) Eligible entity

The term ''eligible entity'' includes any of the following that is organized on a Statewide or multistate basis:

(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 schools and secondary schools that are eligible to participate in the program under part A of subchapter I of this chapter.

(B) A partnership that will provide telecommunications services and that includes three or more of the following entities, at least one of which shall be an agency described in clause (i) or (ii):

(i) A local educational agency that serves a significant number of elementary schools and secondary schools that are eligible for assistance under part A of subchapter I of this chapter, or elementary schools and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 6331(d)(1)(A) of this title.

(ii) A State educational agency.

(iii) An adult and family education program.

(iv) An institution of higher education or a State higher education agency (as that term is defined in section 1003 of this title).

(v) A teacher training center or academy that—

(I) provides teacher preservice and inservice 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 tele-

communications through satellite, cable, telephone, or computer; or

(II) a public broadcasting entity with such experience.

(vii) A public or private elementary school or secondary school.

(3) Instructional programming

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.

(4) Public broadcasting entity

The term ''public broadcasting entity'' has the same meaning given such term in section 397 of title 47.

(Pub. L. 89–10, title V, § 5477, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1836.)

SUBPART 8—READY TO TEACH

§ 7257. Grants

(a) In general

The Secretary is authorized to award grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students to achieve challenging State academic content and student academic achievement standards in core curriculum areas.

(b) Digital educational programming

The Secretary is authorized to award grants, as provided for in section 7257c of this title, to eligible entities described in subsection (b) of such section, to enable such entities to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by elementary schools and secondary schools and based on challenging State academic content and student academic achievement standards. In awarding such grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies or organizations.

(Pub. L. 89–10, title V, § 5481, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1837.)

§ 7257a. Application required

(a) General application

(1) In general

To be eligible to receive a grant under section 7257(a) of this title, a nonprofit telecommunications entity, or partnership of such entities shall submit an application to the Secretary. Each such application shall—

(A) demonstrate that the applicant will use the public broadcasting infrastructure, the Internet, and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of materials and learning technologies for achieving challenging State academic content and student academic achievement standards;

(B) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, and State or local nonprofit public telecommunications entities;

(C) ensure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies that have a high percentage of children counted for the purpose of part A of subchapter I of this chapter; and

(D) contain such additional assurances as the Secretary may reasonably require.

(2) Sites

In approving applications under paragraph (1), the Secretary shall ensure that the program authorized by section 7257(a) of this title is conducted at elementary school and secondary school sites throughout the United States.

(b) Programming application

To be eligible to receive a grant under section 7257(b) of this title, an entity 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 V, § 5482, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257b. Reports and evaluation

An entity receiving a grant under section 7257(a) of this title shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, such report shall describe the program activities undertaken with funds received under the grant, including—

(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

(2) the States in which teachers using the program are located.

(Pub. L. 89–10, title V, § 5483, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257c. Digital educational programming grants

(a) Grants

The Secretary is authorized to award grants under section 7257(b) of this title to eligible entities to facilitate the development of educational programming that shall—

(1) include student assessment tools to provide feedback on student academic achievement;

(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

(3) be created for, or adaptable to, challenging State academic content standards and student academic achievement standards; and

(4) be capable of distribution through digital broadcasting and school digital networks.

(b) Eligible entities

To be eligible to receive a grant under section 7257(b) of this title, an entity shall be a local public telecommunications entity, as defined in section 397(12) of title 47, that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

(c) Competitive basis

Grants under section 7257(b) of this title shall be awarded on a competitive basis as determined by the Secretary.

(d) Matching requirement

To be eligible to receive a grant under section 7257(b) of this title, an entity shall contribute to the activities assisted under such grant non-Federal matching funds in an amount equal to not less than 100 percent of the amount of the grant. Such matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

(e) Duration

A grant under section 7257(b) of this title shall be awarded for a period of 3 years in order to provide a sufficient period of time for the creation of a substantial body of significant content.

(Pub. L. 89–10, title V, § 5484, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257d. Administrative costs

An entity that receives a grant under this subpart may not use more than 5 percent of the amount received under the grant for administrative costs.

(Pub. L. 89–10, title V, § 5485, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

SUBPART 9—FOREIGN LANGUAGE ASSISTANCE PROGRAM

§ 7259. Short title

This subpart may be cited as the ''Foreign Language Assistance Act of 2001''.

(Pub. L. 89–10, title V, § 5491, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

§ 7259a. Program authorized

(a) Program authority

(1) In general

The Secretary is authorized to 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 school and secondary school students.

(2) Duration

Each grant under paragraph (1) shall be awarded for a period of 3 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

Notwithstanding paragraph (1), the Secretary may determine the Federal share 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 subpart.

(d) Special rule

Not less than ¾ of the funds made available under section 7241 of this title to carry out this subpart shall be used for the expansion of foreign language learning in the elementary grades.

(e) Reservation

The Secretary may reserve not more than 5 percent of funds made available under section 7241 of this title to carry out this subpart for a fiscal year to evaluate the efficacy of programs assisted under this subpart.

(Pub. L. 89–10, title V, § 5492, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

§ 7259b. Applications

(a) In general

Any State educational agency or local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, 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 nonnative English speakers in the community with the schools in order to promote two-way language learning;

(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

(4) make effective use of technology, such as computer-assisted instruction, language lab-

oratories, or distance learning, to promote foreign language study;

(5) promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

(Pub. L. 89–10, title V, § 5493, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1840.)

§ 7259c. Elementary school foreign language incentive program

(a) Incentive payments

From amounts made available under section 7241 of this title to carry out this subpart, 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 for not fewer than 4 days per week throughout an academic year.

(Pub. L. 89–10, title V, § 5494, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1840.)

SUBPART 10—PHYSICAL EDUCATION

§ 7261. Short title

This subpart may be cited as the ''Carol M. White Physical Education Program''.

(Pub. L. 89–10, title V, § 5501, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

PRIOR PROVISIONS

A prior section 7261, Pub. L. 89–10, title V, § 5301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, set forth short title of the School Dropout Assistance Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7261a. Purpose

The purpose of this subpart is to award grants and contracts to initiate, expand, and improve physical education programs for all kindergarten through 12th-grade students.

(Pub. L. 89–10, title V, § 5502, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261b. Program authorized

(a) Authorization

The Secretary is authorized to award grants to local educational agencies and community-based organizations (such as Boys and Girls Clubs, Boy Scouts and Girl Scouts, and the Young Men's Christian Organization (YMCA) and Young Women's Christian Organization (YWCA)) to pay the Federal share of the costs of initiating, expanding, and improving physical education programs (including after-school programs) for kindergarten through 12th-grade students by—

(1) providing equipment and support to enable students to participate actively in physical education activities; and

(2) providing funds for staff and teacher training and education.

(b) Program elements

A physical education program funded under this subpart may provide for one or more of the following:

(1) Fitness education and assessment to help students 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 student.

(3) Development of, and instruction in, 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.

(6) Opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

(c) Special rule

For the purpose of this subpart, 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 subpart.

(Pub. L. 89–10, title V, § 5503, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261c. Applications

(a) Submission

Each local educational agency or community-based organization desiring a grant or contract under this subpart shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in order to make progress toward meeting State standards for physical education.

(b) Private school and home-schooled students

An application for funds under this subpart may provide for the participation, in the activities funded under this subpart, of—

(1) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or

(2) home-schooled students, and their parents and teachers.

(Pub. L. 89–10, title V, § 5504, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261d. Requirements

(a) Annual report to the Secretary

In order to continue receiving funding after the first year of a multiyear grant or contract under this subpart, the administrator of the grant or contract for the local educational agency or community-based organization shall submit to the Secretary an annual report that—

(1) describes the activities conducted during the preceding year; and

(2) demonstrates that progress has been made toward meeting State standards for physical education.

(b) Administrative expenses

Not more than 5 percent of the grant funds made available to a local educational agency or community-based organization under this subpart for any fiscal year may be used for administrative expenses.

(Pub. L. 89–10, title V, § 5505, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

§ 7261e. Administrative provisions

(a) Federal share

The Federal share under this subpart may not exceed—

(1) 90 percent of the total cost of a program for the first year for which the program receives assistance under this subpart; and

(2) 75 percent of such cost for the second and each subsequent such year.

(b) Proportionality

To the extent practicable, the Secretary shall ensure that grants awarded under this subpart shall be equitably distributed among local educational agencies and community-based organizations serving urban and rural areas.

(c) Report to Congress

Not later than June 1, 2003, the Secretary shall submit a report to Congress that—

(1) describes the programs assisted under this subpart;

(2) documents the success of such programs in improving physical fitness; and

(3) makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

(d) Availability of funds

Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

(Pub. L. 89–10, title V, § 5506, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

§ 7261f. Supplement, not supplant

Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities.

(Pub. L. 89–10, title V, § 5507, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

PRIOR PROVISIONS

Prior section 7262, Pub. L. 89–10, title V, § 5302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, which set forth purpose of the School Dropout Assistance Act, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 11—COMMUNITY TECHNOLOGY CENTERS

§ 7263. Purpose and program authorization

(a) Purpose

It is the purpose of this subpart to assist eligible applicants—

(1) to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

(2) to provide technical assistance and support to community technology centers.

(b) Program authorization

The Secretary is authorized, in conjunction with the Office of Educational Technology, to award grants, contracts, or cooperative agreements, on a competitive basis, for a period of not more than 3 years, to eligible applicants in order to assist such applicants in—

(1) creating or expanding community technology centers; or

(2) providing technical assistance and support to community technology centers.

(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use in community technology centers of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

(Pub. L. 89–10, title V, § 5511, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1843.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (b)(3), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle C of title I of the Act is classified generally to division C (§ 12571 et seq.) of subchapter I of chapter 129 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.

PRIOR PROVISIONS

A prior section 7263, Pub. L. 89–10, title V, § 5303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, related to grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6561a of this title.

§ 7263a. Eligibility and application requirements

(a) Eligible applicants

In order to be eligible to receive an award under this subpart, an applicant shall—

(1) be an entity (such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization), an institution of higher education, a State educational agency, a local education agency, or a consortium of such entities, institutions, or agencies; and

(2) have the capacity to significantly expand access to computers and related services for disadvantaged residents of economically dis-

tressed urban and rural communities (who would otherwise be denied such access).

(b) Application requirements

In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. The application shall include each of the following:

(1) A description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of entities (such as institutions, organizations, business and other groups in the community) that will provide support for the creation, expansion, and continuation of the proposed project; and

(B) the extent to which the proposed project coordinates with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community.

(3) A description of how the proposed project would be sustained once the Federal funds awarded under this subpart end.

(4) A plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

(c) Matching requirements

The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

(Pub. L. 89–10, title V, § 5512, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1843.)

§ 7263b. Uses of funds

(a) Required uses

A recipient shall use funds under this subpart for—

(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

(2) evaluating the effectiveness of the project.

(b) Permissible uses

A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of preschool preparation, academic achievement, educational development, and workforce development, such as the following:

(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

(B) Adult education and family literacy activities through technology and the Internet, including—

(i) General Education Development, Language Instruction Educational Programs, and adult basic education classes or programs;

(ii) introduction to computers;

(iii) intergenerational activities; and

(iv) educational development opportunities.

(C) Career development and job preparation activities, such as—

(i) training in basic and advanced computer skills;

(ii) resume writing workshops; and

(iii) access to databases of employment opportunities, career information, and other online materials.

(D) Small business activities, such as—

(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

(ii) access to information on business start-up programs that is available online, or from other sources.

(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

(Pub. L. 89–10, title V, § 5513, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1844.)

PRIOR PROVISIONS

A prior section 7264, Pub. L. 89–10, title V, § 5404 [5304], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3703, which related to application for school dropout assistance, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 6561b of this title.

SUBPART 12—EDUCATIONAL, CULTURAL, APPRENTICESHIP, AND EXCHANGE PROGRAMS FOR ALASKA NATIVES, NATIVE HAWAIIANS, AND THEIR HISTORICAL WHALING AND TRADING PARTNERS IN MASSACHUSETTS

§ 7265. Short title

This subpart may be cited as the ''Alaska Native and Native Hawaiian Education Through Cultural and Historical Organizations Act''.

(Pub. L. 89–10, title V, § 5521, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1845.)

PRIOR PROVISIONS

A prior section 7265, Pub. L. 89–10, title V, § 5305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3704, related to use of grants for dropout prevention activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6555 of this title.

§ 7265a. Findings and purposes

(a) Findings

Congress finds the following:

(1) Alaska Natives and Native Hawaiians have been linked for over 200 years to the coastal towns of Salem, Massachusetts, and New Bedford, Massachusetts, through the China trade from Salem and whaling voyages from New Bedford.

(2) Nineteenth-century trading ships sailed from Salem, Massachusetts, around Cape Horn of South America, and up the Northwest coast of the United States to Alaska, where their crews traded with Alaska Native people for furs, and then went on to Hawaii to trade for sandalwood with Native Hawaiians before going on to China.

(3) During the 19th century, over 2,000 whaling voyages sailed out of New Bedford, Massachusetts to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities.

(4) Many New Bedford whaling voyages continued on to Hawaii, where they joined Native Hawaiians from the neighboring islands.

(5) From those commercial and whaling voyages, a rich cultural exchange and strong trading relationships developed among the three peoples involved.

(6) In the past decades, awareness of the historical trading, cultural, and whaling links has faded among Alaska Natives, Native Hawaiians, and the people of the continental United States.

(7) In 2000, the Alaska Native Heritage Center in Alaska, the Bishop Museum in Hawaii, and the Peabody-Essex Museum in Massachusetts initiated the New Trade Winds project to use 21st-century technology, including the Internet, to educate students and their parents about historic and contemporary cultural and trading ties that continue to link the diverse cultures of the peoples involved.

(8) The New Bedford Whaling Museum, in partnership with the New Bedford Whaling National Historical Park, has developed a cultural exchange and educational program with the Inupiat Heritage Center in Barrow, Alaska to bring together the children, parents, and elders from the Arctic region of Alaska with children and families of Massachusetts to learn about their historical ties and about each other's contemporary cultures.

(9) Within the fast-growing cultural sector, meaningful educational and career opportunities based on traditional relationships exist for Alaska Natives, Native Hawaiians, and low-income youth in Massachusetts.

(10) Cultural institutions can provide practical, culturally relevant, education-related internship and apprentice programs, such as the Museum Action Corps at the Peabody-Essex Museum and similar programs at the New Bedford Oceanarium and other institutions, to prepare youths and their families for careers in the cultural sector.

(11) The resources of the institutions described in paragraphs (7) and (8) provide unique opportunities for illustrating and interpreting the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States, for educating students and their parents, and for providing opportunities for internships and apprenticeships leading to careers with cultural institutions.

(b) Purposes

The purposes of this subpart are the following:

(1) To authorize and develop innovative culturally-based educational programs and cultural exchanges to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition to Alaska and Hawaii to learn about shared culture and traditions.

(2) To authorize and develop internship and apprentice programs to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition with Alaska and Hawaii to prepare for careers with cultural institutions.

(3) To supplement programs and authorities in the area of education to further the objectives of this subpart.

(4) To authorize and develop cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

(Pub. L. 89–10, title V, § 5522, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1845; amended Pub. L. 109–149, title III, § 306(1), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Subsec. (b)(4). Pub. L. 109–149 added par. (4).

§ 7265b. Program authorization

(a) Grants and contracts

In order to carry out programs that fulfill the purposes of this subpart, the Secretary is authorized to make grants to, or enter into contracts with, the following:

(1) The Alaska Native Heritage Center in Anchorage, Alaska.

(2) The Inupiat Heritage Center in Barrow, Alaska.

(3) The Bishop Museum in Hawaii.

(4) The Peabody-Essex Museum in Salem, Massachusetts.

(5) The New Bedford Whaling Museum and the New Bedford Oceanarium in New Bedford, Massachusetts.

(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

(7) Other Alaska Native and Native Hawaiian cultural and educational organizations.

(8) Cultural and educational organizations with experience in developing or operating programs that illustrate and interpret the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States.

(9) Consortia of the organizations and entities described in this subsection.

(b) Uses of funds

Activities provided through programs carried out under this subpart may include one or more of the following:

(1) Development and implementation of educational programs to increase understanding of cultural diversity and multicultural communication among Alaska Natives, Native Hawaiians, and the people of the continental United States, based on historic patterns of trading and commerce.

(2) Development and implementation of programs using modern technology, including the Internet, to educate students, their parents, and teachers about historic and contemporary cultural and trading ties that continue to link the diverse cultures of Alaska Natives, Native Hawaiians, and the people of Massachusetts.

(3) Cultural exchanges of elders, students, parents, and teachers among Alaska Natives, Native Hawaiians, and the people of Massachusetts to increase awareness of diverse cultures among each group.

(4) Sharing of collections among cultural institutions designed to increase awareness of diverse cultures and links among them.

(5) Development and implementation of internship and apprentice programs in cultural institutions to train Alaska Natives, Native Hawaiians, and low-income students in Massachusetts for careers with cultural institutions.

(6) Other activities, consistent with the purposes of this subpart, to meet the educational needs of Alaska Natives, Native Hawaiians, and students and their parents in Massachusetts.

(7) Cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

(Pub. L. 89–10, title V, § 5523, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1846; amended Pub. L. 109–149, title III, § 306(2), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Subsec. (a)(6) to (9). Pub. L. 109–149, § 306(2)(A), added par. (6) and redesignated former pars. (6) to (8) as (7) to (9), respectively.

Subsec. (b)(7). Pub. L. 109–149, § 306(2)(B), added par. (7).

§ 7265c. Administrative provisions

(a) Application required

No grant may be made under this subpart, and no contract may be entered into under this subpart, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this subpart.

(b) Local educational agency coordination

Each applicant for a grant or contract under this subpart shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

(Pub. L. 89–10, title V, § 5524, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1847.)

§ 7265d. Availability of funds

If sufficient funds are made available under section 7241 of this title to carry out this subpart for a fiscal year, the Secretary shall make available, to support activities described in section 7265b(b) of this title, the following amounts:

(1) Not less than $2,000,000 each to—

(A) the New Bedford Whaling Museum, in partnership with the New Bedford Oceanarium, in Massachusetts;

(B) the Inupiat Heritage Center in Alaska; and

(C) the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

(2) For the New Trade Winds project, not less than $1,000,000 each to—

(A) the Alaska Native Heritage Center in Alaska;

(B) the Bishop Museum in Hawaii; and

(C) the Peabody-Essex Museum in Massachusetts.

(3) For internship and apprenticeship programs (including the Museum Action Corps of the Peabody-Essex Museum), not less than $1,000,000 each to—

(A) the Alaska Native Heritage Center in Alaska;

(B) the Bishop Museum in Hawaii; and

(C) the Peabody-Essex Museum in Massachusetts.

(Pub. L. 89–10, title V, § 5525, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1847; amended Pub. L. 109–149, title III, § 306(3), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Par. (1)(A). Pub. L. 109–149, § 306(3)(A), which directed striking out ''and'' after semicolon in subpar. (a), was executed by striking out ''and'' in subpar. (A) to reflect the probable intent of Congress.

Par. (1)(B), (C). Pub. L. 109–149, § 306(3)(B), (C), substituted ''; and'' for period in subpar. (B), and added subpar. (C).

§ 7265e. Definitions

In this subpart:

(1) Alaska Native

The term ''Alaska Native'' has the meaning given that term in section 7546 of this title.

(2) Native Hawaiian

The term ''Native Hawaiian'' has the meaning given that term in section 7517 of this title.

(Pub. L. 89–10, title V, § 5526, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

PRIOR PROVISIONS

A prior section 7266, Pub. L. 89–10, title V, § 5306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, which related to distribution of assistance and limitation on costs, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 13—EXCELLENCE IN ECONOMIC EDUCATION

§ 7267. Short title

This subpart may be cited as the ''Excellence in Economic Education Act of 2001''.

(Pub. L. 89–10, title V, § 5531, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

PRIOR PROVISIONS

A prior section 7267, Pub. L. 89–10, title V, § 5307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, related to reports, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7267a. Purpose and goals

(a) Purpose

The purpose of this subpart is to promote economic and financial literacy among all students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

(b) Objectives

The objectives of this subpart are the following:

(1) To increase students' knowledge of, and achievement in, economics to enable the students to become more productive and informed citizens.

(2) To strengthen teachers' understanding of, and competency in, economics to enable the teachers to increase student mastery of economic principles and the practical application of those principles.

(3) To encourage economic education research and development, to disseminate effective instructional materials, and to promote replication of best practices and exemplary programs that foster economic literacy.

(4) To assist States in measuring the impact of education in economics.

(5) To leverage and expand private and public support for economic education partnerships at national, State, and local levels.

(Pub. L. 89–10, title V, § 5532, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

§ 7267b. Grant program authorized

(a) Authorization

The Secretary is authorized to award a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in the Nation's classrooms (referred to in this subpart as the ''grantee'').

(b) Uses of funds

(1) Direct activities

The grantee shall use 25 percent of the funds made available through the grant for a fiscal year—

(A) to strengthen and expand the grantee's relationships with State and local personal finance, entrepreneurial, and economic education organizations;

(B) to support and promote training of teachers who teach a grade from kindergarten through grade 12 regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics;

(C) to support research on effective teaching practices and the development of assessment instruments to document student understanding of personal finance and economics; and

(D) to develop and disseminate appropriate materials to foster economic literacy.

(2) Subgrants

The grantee shall use 75 percent of the funds made available through the grant for a fiscal year to award subgrants to State educational agencies or local educational agencies, and State or local economic, personal finance, or entrepreneurial education organizations (referred to in this section as the ''recipient''). The grantee shall award such a subgrant to pay for the Federal share of the cost of enabling the recipient to work in partnership with one or more of the entities described in paragraph (3) for one or more of the following purposes:

(A) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship.

(B) Providing resources to school districts that desire to incorporate economics and personal finance into the curricula of the schools in the districts.

(C) Conducting evaluations of the impact of economic and financial literacy education on students.

(D) Conducting economic and financial literacy education research.

(E) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education (such as saving, investing, and entrepreneurial education) and to encourage awareness and student academic achievement in economics.

(F) Encouraging replication of best practices to promote economic and financial literacy.

(3) Partnership entities

The entities described in this paragraph are the following:

(A) A private sector entity.

(B) A State educational agency.

(C) A local educational agency.

(D) An institution of higher education.

(E) An organization promoting economic development.

(F) An organization promoting educational excellence.

(G) An organization promoting personal finance or entrepreneurial education.

(Pub. L. 89–10, title V, § 5533, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

§ 7267c. Applications

(a) Grantee applications

To be eligible to receive a grant under this subpart, the grantee shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Recipient applications

(1) Submission

To be eligible to receive a subgrant under this section, a recipient shall submit an application to the grantee at such time, in such manner, and accompanied by such information as the grantee may require.

(2) Review

The grantee shall invite the individuals described in paragraph (3) to review all applications from recipients for a subgrant under this section and to make recommendations to the grantee regarding the approval of the applications.

(3) Reviewers

The individuals described in this paragraph are the following:

(i) Leaders in the fields of economics and education.

(ii) Such other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance communities.

(Pub. L. 89–10, title V, § 5534, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1849.)

§ 7267d. Requirements

(a) Administrative costs

The grantee and each recipient receiving a subgrant under this subpart for a fiscal year may use not more than 5 percent of the funds made available through the grant or subgrant for administrative costs.

(b) Teacher training programs

In carrying out the teacher training programs described in section 7267b(b)(2)(A) of this title, a recipient shall—

(1) train teachers who teach a grade from kindergarten through grade 12; and

(2) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of those teachers' students.

(c) Involvement of business community

In carrying out the activities assisted under this subpart, the grantee and recipients are strongly encouraged to—

(1) include interactions with the local business community to the fullest extent possible to reinforce the connection between economic and financial literacy and economic development; and

(2) work with private businesses to obtain matching contributions for Federal funds and assist recipients in working toward self-sufficiency.

(d) Additional requirements and technical assistance

The grantee shall—

(1) meet such other requirements as the Secretary determines to be necessary to assure compliance with this section; and

(2) receive from the Secretary such technical assistance as may be necessary to carry out this section.

(Pub. L. 89–10, title V, § 5535, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1850.)

§ 7267e. Administrative provisions

(a) Federal share

The Federal share of the cost described in section 7267b(b)(2) of this title shall be 50 percent.

(b) Payment of non-Federal share

The non-Federal share may be paid in cash or in kind (fairly evaluated, including plant, equipment, or services).

(c) Reports to Congress

Not later than 2 years after the date funds are first made available to carry out this subpart, and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report regarding activities assisted under this subpart.

(Pub. L. 89–10, title V, § 5536, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1850.)

§ 7267f. Supplement, not supplant

Funds made available to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, and local funds expended for the purpose described in section 7267a(a) of this title.

(Pub. L. 89–10, title V, § 5537, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1851.)

PRIOR PROVISIONS

A prior section 7268, Pub. L. 89–10, title V, § 5308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, which authorized appropriations for school dropout assistance, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 14—GRANTS TO IMPROVE THE MENTAL HEALTH OF CHILDREN

§ 7269. Grants for the integration of schools and mental health systems

(a) Authorization

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

(b) Duration

With respect to a grant, contract, or cooperative agreement awarded or entered into under this section, the period during which payments under such grant, contract or agreement are made to the recipient may not exceed 5 years.

(c) Use of funds

A State educational agency, local educational agency, or Indian tribe that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract, or cooperative agreement for the following:

(1) To enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to

provide, enhance, or improve prevention, diagnosis, and treatment services to students.

(2) To enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services.

(3) To provide training for the school personnel and mental health professionals who will participate in the program carried out under this section.

(4) To provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section.

(5) To provide linguistically appropriate and culturally competent services.

(6) To evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services, and make recommendations to the Secretary about sustainability of the program.

(d) Applications

To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The application shall include each of the following:

(1) A description of the program to be funded under the grant, contract, or cooperative agreement.

(2) A description of how such program will increase access to quality mental health services for students.

(3) A description of how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary.

(4) An assurance that—

(A) persons providing services under the grant, contract, or cooperative agreement are adequately trained to provide such services;

(B) the services will be provided in accordance with subsection (c) of this section;

(C) teachers, principal administrators, and other school personnel are aware of the program; and

(D) parents of students participating in services under this section will be involved in the design and implementation of the services.

(5) An explanation of how the applicant will support and integrate existing school-based services with the program to provide appropriate mental health services for students.

(6) An explanation of how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

(e) Interagency agreements

(1) Designation of lead agency

The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local entities and parents and guardians of students.

(2) Contents

The interagency agreement shall ensure the provision of the services described in subsection (c) of this section, specifying with respect to each agency, authority, or entity—

(A) the financial responsibility for the services;

(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

(C) the conditions and terms of reimbursement among the agencies, authorities, or entities that are parties to the interagency agreement, including procedures for dispute resolution.

(f) Evaluation

The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

(g) Distribution of awards

The Secretary shall ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among urban, suburban, and rural populations.

(h) Rule of construction

Nothing in Federal law shall be construed—

(1) to prohibit an entity involved with a program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

(i) Supplement, not supplant

Any services provided through programs carried out under this section must supplement, and not supplant, existing mental health services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(Pub. L. 89–10, title V, § 5541, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1851.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (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.

§ 7269a. Promotion of school readiness through early childhood emotional and social development

(a) Authorization

The Secretary, in consultation with the Secretary of Health and Human Services, may

award grants (to be known as ''Foundations for Learning Grants'') to local educational agencies, local councils, community-based organizations, and other public or nonprofit private entities to assist eligible children to become ready for school.

(b) Applications

To be eligible to receive a grant under this section, a local educational agency, local council, community-based organization, or other public or nonprofit private entity, or a combination of such entities, 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 application shall include each of the following:

(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant.

(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State.

(3) An assurance that—

(A) services under the grant shall be provided by or under the supervision of qualified professionals with expertise in early childhood development;

(B) such services shall be culturally competent;

(C) such services shall be provided in accordance with subsection (c) of this section;

(D) funds received under this section shall be used to supplement, and not supplant, non-Federal funds; and

(E) parents of students participating in services under this section will be involved in the design and implementation of the services.

(c) Uses of funds

A local educational agency, local council, community-based organization, or other public or nonprofit private entity that receives funds under this section may use such funds to benefit eligible children, for one or more of the following:

(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development and take into consideration the characteristics described in subsection (f)(1) of this section.

(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services.

(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other services or activities authorized by this section.

(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families.

(5) To evaluate the success of strategies and services provided pursuant to this section in promoting young children's successful entry to school and to maintain data systems required for effective evaluations.

(6) To pay for the expenses of administering the activities authorized under this section, including assessment of children's eligibility for services.

(d) Limitations

(1) Services not otherwise funded

A local educational agency, local council, community-based organization, or other public or nonprofit private entity may use funds under this section only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

(2) Administrative expenses

A grantee may not use more than 3 percent of the amount of the grant to pay the administrative expenses described in subsection (c)(6) of this section.

(e) Evaluations

The Secretary shall directly evaluate, or enter into a contract for an outside evaluation of, each program carried out under this section and shall disseminate the findings with respect to such evaluation to appropriate public and private entities.

(f) Definitions

In this section:

(1) Eligible child

The term ''eligible child'' means a child who has not attained the age of 7 years, and to whom two or more of the following characteristics apply:

(A) The child has been abused, maltreated, or neglected.

(B) The child has been exposed to violence.

(C) The child has been homeless.

(D) The child has been removed from child care, Head Start, or preschool for behavioral reasons or is at risk of being so removed.

(E) The child has been exposed to parental depression or other mental illness.

(F) The family income with respect to the child is below 200 percent of the poverty line.

(G) The child has been exposed to parental substance abuse.

(H) The child has had early behavioral and peer relationship problems.

(I) The child had a low birth weight.

(J) The child has a cognitive deficit or developmental disability.

(2) Local council

The term ''local council'' means a council that is established or designated by a local government entity, Indian tribe, regional corporation, or native Hawaiian entity, as appropriate, which is composed of representatives of local agencies directly affected by early learning programs, parents, key community leaders, and other individuals concerned with early learning issues in the locality, such as elementary education, child care resource and referral services, early learning opportunities, child care, and health services.

(3) Provider of early childhood services

The term ''provider of early childhood services'' means a public or private entity that has

regular contact with young children, including child welfare agencies, child care providers, Head Start and Early Head Start providers, preschools, kindergartens, libraries, mental health professionals, family courts, homeless shelters, and primary care providers.

(Pub. L. 89–10, title V, § 5542, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1853.)

SUBPART 15—ARTS IN EDUCATION

§ 7271. Assistance for arts education

(a) Purposes

The purposes of this subpart are the following:

(1) To support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum.

(2) To help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts.

(3) To support the national effort to enable all students to demonstrate competence in the arts.

(b) Authority

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (c) of this section.

(c) Eligible entities

The Secretary may make assistance available under subsection (b) of this section to each of the following eligible entities:

(1) State educational agencies.

(2) Local educational agencies.

(3) Institutions of higher education.

(4) Museums or other cultural institutions.

(5) Any other public or private agencies, institutions, or organizations.

(d) Use of funds

Assistance made available under this subpart may be used for any of the following:

(1) Research on arts education.

(2) Planning, developing, acquiring, expanding, improving, or disseminating information about model school-based arts education programs.

(3) The development of model State arts education assessments based on State academic achievement standards.

(4) The development and implementation of curriculum frameworks for arts education.

(5) The development of model inservice professional development programs for arts educators and other instructional staff.

(6) Supporting collaborative activities with Federal agencies or institutions involved in arts education, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education.

(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 school and secondary school curriculum.

(10) Other activities that further the purposes of this subpart.

(e) Special rule

If the amount made available to the Secretary to carry out this subpart for any fiscal year is $15,000,000 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.

(f) Conditions

As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

(2) to use such assistance only to supplement, and not to supplant, any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

(g) Consultation

In carrying out this subpart, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts (including State and local arts agencies involved in arts education).

(Pub. L. 89–10, title V, § 5551, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1855.)

SUBPART 16—PARENTAL ASSISTANCE AND LOCAL FAMILY INFORMATION CENTERS

§ 7273. Purposes

The purposes of this subpart are the following:

(1) To provide leadership, technical assistance, and financial support to nonprofit organizations (including statewide nonprofit organizations) and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement.

(2) To strengthen partnerships among parents (including parents of children from birth through age 5), teachers, principals, administrators, and other school personnel in meeting the educational needs of children.

(3) To develop and strengthen the relationship between parents and their children's school.

(4) To further the developmental progress of children assisted under this subpart.

(5) To coordinate activities funded under this subpart with parental involvement initia-

tives funded under section 6318 of this title and other provisions of this chapter.

(6) To provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

(Pub. L. 89–10, title V, § 5561, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1856.)

§ 7273a. Grants authorized

(a) Parental information and resource centers

The Secretary is authorized to award grants in each fiscal year to nonprofit organizations (including statewide nonprofit organizations), and consortia of such organizations and local educational agencies, to establish school-linked or school-based parental information and resource centers that provide comprehensive training, information, and support to—

(1) parents of children enrolled in elementary schools and secondary schools;

(2) individuals who work with the parents of children enrolled in elementary schools and secondary schools;

(3) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involvement programs; and

(4) parents of children from birth through age 5.

(b) Geographic distribution

In awarding grants under this subpart, the Secretary shall, to the extent practicable, ensure that such grants are distributed in all geographic regions of the United States.

(Pub. L. 89–10, title V, § 5562, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1857.)

§ 7273b. Applications

(a) Submission

Each nonprofit organization (including a statewide nonprofit organization), or a consortia of such an organization and a local educational agency, that desires 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 require.

(b) Contents

Each application submitted under subsection (a) of this section, at a minimum, shall include assurances that the organization or consortium will—

(1)(A) be governed by a board of directors the membership of which includes parents; or

(B) be an organization or consortium that represents the interests of parents;

(2) establish a special advisory committee the membership of which includes—

(A) parents of children enrolled in elementary schools and secondary schools, who shall constitute a majority of the members of the special advisory committee;

(B) representatives of education professionals with expertise in improving services for disadvantaged children; and

(C) representatives of local elementary schools and secondary schools, including students and representatives from local youth organizations;

(3) use at least 50 percent of the funds received under this subpart in each fiscal year to serve areas with high concentrations of low-income families, in order to serve parents who are severely educationally or economically disadvantaged;

(4) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(5) serve both urban and rural areas;

(6) design a center that meets the unique training, information, and support needs of parents of children enrolled in elementary schools and secondary schools, particularly such parents who are educationally or economically disadvantaged;

(7) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

(8) network with—

(A) local educational agencies and schools;

(B) parents of children enrolled in elementary schools and secondary schools;

(C) parent training and information centers assisted under section 1471 of this title;

(D) clearinghouses; and

(E) other organizations and agencies;

(9) focus on serving parents of children enrolled in elementary schools and secondary schools who are parents of low-income, minority, and limited English proficient children;

(10) use at least 30 percent of the funds received under this subpart in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool Youngsters programs, or other early childhood parent education programs;

(11) provide assistance to parents in areas such as understanding State and local standards and measures of student and school academic achievement;

(12) work with State educational agencies and local educational agencies to determine parental needs and the best means for delivery of services;

(13) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education, and job training; and

(14) work with and foster partnerships with other agencies that provide programs and deliver services described in paragraph (13) to make such programs and services more accessible to children and families.

(Pub. L. 89–10, title V, § 5563, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1857; amended Pub. L. 108–446, title III, § 305(g)(3), Dec. 3, 2004, 118 Stat. 2805.)

AMENDMENTS

2004—Subsec. (b)(8)(C). Pub. L. 108–446 substituted ''section 1471'' for ''section 1482''.

§ 7273c. Uses of funds

(a) In general

Grant funds received under this subpart shall be used for one or more of the following:

(1) To assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

(A) to engage in activities that will improve student academic achievement, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational academic achievement in comparison to State and local standards;

(B) to provide follow-up support for their children's educational achievement;

(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

(E) to participate in the design and provision of assistance to students who are not making adequate academic progress;

(F) to participate in State and local decisionmaking; and

(G) to train other parents (such as training related to Parents as Teachers activities).

(2) To obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents.

(3) To help the parents learn and use the technology applied in their children's education.

(4) To plan, implement, and fund activities for parents that coordinate the education of their children with other Federal, State, and local services and programs that serve their children or their families.

(5) To provide support for State or local educational personnel, if the participation of such personnel will further the activities assisted under the grant.

(6) To coordinate and integrate early childhood programs with school-age programs.

(b) Permissive activities

Grant funds received under this subpart may be used to assist schools with activities including one or more of the following:

(1) Developing and implementing the schools' plans or activities under sections 6318 and 6319 of this title.

(2) Developing and implementing school improvement plans, including addressing problems that develop in the implementation of the schools' plans or activities under sections 6318 and 6319 of this title.

(3) Providing information about assessment and individual results to parents in a manner and a language the family can understand.

(4) Coordinating the efforts of Federal, State, and local parent education and family involvement initiatives.

(5) Providing training, information, and support to—

(A) State educational agencies;

(B) local educational agencies and schools, especially low-performing local educational agencies and schools; and

(C) organizations that support family-school partnerships.

(Pub. L. 89–10, title V, § 5564, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1858.)

§ 7273d. Administrative provisions

(a) Matching funds for grant renewal

For each fiscal year after the first fiscal year in which an organization or consortium receives assistance under this subpart, the organization or consortium shall demonstrate in the application submitted for such fiscal year, that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

(b) Submission of information

(1) In general

Each organization or consortium receiving assistance under this subpart shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this subpart, including the following information:

(A) The number of parents (including the number of minority and limited English proficient parents) who receive information and training.

(B) The types and modes of training, information, and support provided under this subpart.

(C) The strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this subpart.

(D) The parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student academic achievement, student and school academic achievement, and parental involvement in school planning, review, and improvement.

(E) The effectiveness of the activities that local educational agencies and schools are carrying out, with regard to parental involvement and other activities assisted under this chapter, that lead to improved student academic achievement and improved student and school academic achievement.

(2) Dissemination

The Secretary shall disseminate annually to Congress and the public the information that each organization or consortium submits under paragraph (1).

(c) Technical assistance

The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

(d) Rule of construction

Nothing in this subpart shall be construed to prohibit a parental information and resource center from—

(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

(2) working with another agency that serves children.

(e) Parental rights

Notwithstanding any other provision of this subpart—

(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or developmental screening under this subpart; and

(2) no program or center assisted under this subpart shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

(f) Continuation of awards

The Secretary shall use funds made available under this subpart to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before January 8, 2002) for the duration of the grant or contract award.

(Pub. L. 89–10, title V, § 5565, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1859.)

REFERENCES IN TEXT

Title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before January 8, 2002), referred to in subsec. (f), is title IV of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 187, which was classified to subchapter IV (§ 5911 et seq.) of chapter 68 of this title prior to repeal by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265, effective Sept. 30, 2000.

§ 7273e. Local family information centers

(a) In general

If the amount made available to carry out this subpart for a fiscal year is more than $50,000,000, the Secretary is authorized to award 50 percent of the amount that exceeds $50,000,000 as grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in elementary schools and secondary schools assisted under this subpart have the training, information, and support the parents need to enable the parents to participate effectively in their children's early childhood education, in their children's elementary and secondary education, and in helping their children to meet challenging State academic content and student academic achievement standards.

(b) Local nonprofit parent organization defined

In this section, the term ''local nonprofit parent organization'' means a private nonprofit organization (other than an institution of higher education) that—

(1) has a demonstrated record of working with low-income individuals and parents;

(2)(A) has a board of directors, the majority of whom are parents of students in elementary schools and secondary schools assisted under part A of subchapter I of this chapter and located in the geographic area to be served by a local family information center; or

(B) has a special governing committee to direct and implement a local family information center, a majority of the members of whom are parents of students in schools assisted under part A of subchapter I of this chapter; and

(3) is located in a community with elementary schools and secondary schools that receive funds under part A of subchapter I of this chapter, and is accessible to the families of students in those schools.

(Pub. L. 89–10, title V, § 5566, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1861.)

SUBPART 17—COMBATTING DOMESTIC VIOLENCE

§ 7275. Grants to combat the impact of experiencing or witnessing domestic violence on elementary and secondary school children

(a) Definitions

In this section:

(1) Domestic violence

The term ''domestic violence'' has the meaning given that term in section 3796gg–2 of title 42.

(2) Expert

The term ''expert'' means—

(A) an expert on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, or victim advocacy field; and

(B) a State or local domestic violence coalition or community-based youth organization.

(3) Witness domestic violence

(A) In general

The term ''witness domestic violence'' means to witness—

(i) an act of domestic violence that constitutes actual or attempted physical assault; or

(ii) a threat or other action that places the victim in fear of domestic violence.

(B) Witness

In subparagraph (A), the term ''witness'' means—

(i) to directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

(ii) to be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

(b) Grants authorized

(1) Authority

The Secretary is authorized to award grants to local educational agencies that work with

experts to enable the elementary schools and secondary schools served by the local educational agency—

(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children;

(B) to provide educational programming for students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

(C) to provide support services for students and school personnel to develop and strengthen effective prevention and intervention strategies with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children; and

(D) to develop and implement school system policies regarding appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence.

(2) Award basis

The Secretary is authorized to award grants under this section—

(A) on a competitive basis; and

(B) in a manner that ensures that such grants are equitably distributed among local educational agencies located in rural, urban, and suburban areas.

(3) Policy dissemination

The Secretary shall disseminate to local educational agencies any Department policy guidance regarding the prevention of domestic violence and the impact on children of experiencing or witnessing domestic violence.

(c) Uses of funds

Funds made available to carry out this subpart may be used for one or more of the following purposes:

(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or who witness domestic violence, and the impact of such violence on those students.

(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

(3) To develop and implement elementary school and secondary school system policies regarding—

(A) appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence; and

(B) to develop and implement policies on reporting and referral procedures for those students.

(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call and who is an expert.

(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on those children.

(6) To conduct evaluations to assess the impact of programs and policies assisted under this subpart in order to enhance the development of the programs.

(d) Confidentiality

Policies, programs, training materials, and evaluations developed and implemented under subsection (c) of this section shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

(e) Application

To be eligible for a grant under this section for a fiscal year, a local educational agency, in consultation with an expert, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include each of the following:

(1) A description of the need for funds provided under the grant and the plan for implementation of any of the activities described in subsection (c) of this section.

(2) A description of how the experts will work in consultation and collaboration with the local educational agency.

(3) Measurable objectives for, and expected results from, the use of the funds provided under the grant.

(4) Provisions for appropriate remuneration for collaborating partners.

(Pub. L. 89–10, title V, § 5571, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1861.)

SUBPART 18—HEALTHY, HIGH-PERFORMANCE SCHOOLS

§ 7277. Grant program authorized

The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, is authorized to award grants to State educational agencies to permit such State educational agencies to carry out section 7277a of this title.

(Pub. L. 89–10, title V, § 5581, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1863.)

§ 7277a. State uses of funds

(a) Subgrants

(1) In general

A State educational agency receiving a grant under this subpart shall use funds made available under the grant to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in section 7277b of this title.

(2) Limitation

A State educational agency shall award subgrants under this subsection to local edu-

cational agencies that are the neediest, as determined by the State, and that have made a commitment to develop healthy, high-performance school buildings in accordance with the plan developed and approved under paragraph (3)(A).

(3) Implementation

(A) Plans

A State educational agency shall award subgrants under this subsection only to local educational agencies that, in consultation with the State educational agency and State agencies with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which the subgrants are made.

(B) Supplementing grant funds

The State educational agency shall encourage local educational agencies that receive subgrants under this subsection to supplement their subgrant funds with funds from other sources in order to implement their plans.

(b) Administration

A State educational agency receiving a grant under this subpart shall use the grant funds made available under this subpart for one or more of the following:

(1) To evaluate compliance by local educational agencies with the requirements of this subpart.

(2) To distribute information and materials on healthy, high-performance school buildings for both new and existing facilities.

(3) To organize and conduct programs for school board members, school district personnel, and others to disseminate information on healthy, high-performance school buildings.

(4) To provide technical services and assistance in planning and designing healthy, high-performance school buildings.

(5) To collect and monitor information pertaining to healthy, high-performance school building projects.

(Pub. L. 89–10, title V, § 5582, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1863.)

§ 7277b. Local uses of funds

(a) In general

A local educational agency that receives a subgrant under section 7277a(a) of this title shall use the subgrant funds to plan and prepare for healthy, high-performance school building projects that—

(1) reduce energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results;

(2) meet Federal and State health and safety codes; and

(3) support healthful, energy efficient, and environmentally sound practices.

(b) Use of funds

A local educational agency that receives a subgrant under section 7277a(a) of this title shall use funds for one or more of the following:

(1) To develop a comprehensive energy audit of the energy consumption characteristics of a building and the need for additional energy conservation measures necessary to allow schools to meet the guidelines set out in subsection (a) of this section.

(2) To produce a comprehensive analysis of building strategies, designs, materials, and equipment that—

(A) are cost effective, produce greater energy efficiency, and enhance indoor air quality; and

(B) can be used when conducting school construction and renovation or purchasing materials and equipment.

(3) To obtain research and provide technical services and assistance in planning and designing healthy, high-performance school buildings, including developing a timeline for implementation of such plans.

(Pub. L. 89–10, title V, § 5583, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1864.)

§ 7277c. Report to Congress

The Secretary shall conduct a biennial review of State actions implementing this subpart and carrying out the plans developed under this subpart through State and local funding, and shall submit a report to Congress on the results of such reviews.

(Pub. L. 89–10, title V, § 5584, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7277d. Limitations

No funds received under this subpart may be used for any of the following:

(1) Payment of maintenance of costs in connection with any projects constructed in whole or in part with Federal funds provided under this subpart.

(2) Construction, renovation, or repair of school facilities.

(3) Construction, renovation, repair, or acquisition of a stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public.

(Pub. L. 89–10, title V, § 5585, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7277e. Healthy, high-performance school building defined

In this subpart, the term ''healthy, high-performance school building'' means a school building in which the design, construction, operation, and maintenance—

(1) use energy-efficient and affordable practices and materials;

(2) are cost-effective;

(3) enhance indoor air quality; and

(4) protect and conserve water.

(Pub. L. 89–10, title V, § 5586, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

SUBPART 19—GRANTS FOR CAPITAL EXPENSES OF PROVIDING EQUITABLE SERVICES FOR PRIVATE SCHOOL STUDENTS

§ 7279. Grant program authorized

The Secretary is authorized to award grants to State educational agencies, from allotments made under section 7279b of this title, to enable the State educational agencies to award subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

(Pub. L. 89–10, title V, § 5591, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7279a. Uses of funds

A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 6320 of this title.

(Pub. L. 89–10, title V, § 5592, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7279b. Allotments to States

From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of subchapter I of this chapter in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

(Pub. L. 89–10, title V, § 5593, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279c. Subgrants to local educational agencies

(a) Applications

A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

(b) Distribution

A State educational agency shall award subgrants to local educational agencies within the State based on the degree of need set forth in their respective applications submitted under subsection (a) of this section.

(Pub. L. 89–10, title V, § 5594, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279d. Capital expenses defined

In this subpart, the term ''capital expenses'' means—

(1) 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;

(2) insurance and maintenance costs;

(3) transportation; and

(4) other comparable goods and services.

(Pub. L. 89–10, title V, § 5595, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279e. Termination

The authority provided by this subpart terminates effective October 1, 2003.

(Pub. L. 89–10, title V, § 5596, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

SUBPART 20—ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION

§ 7281. Reservation

The Secretary is authorized to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under section 7702 of this title.

(Pub. L. 89–10, title V, § 5601, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7281a. Eligibility

A local educational agency is eligible to receive additional assistance under this subpart only if such agency—

(1) received a payment under both section 7702 of this title 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;

(2) provided a free public education to children described under subparagraph (A), (B), or (D) of section 7703(a)(1) of this title;

(3) 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 subpart, the agency does not have a military installation located within its geographic boundaries;

(4) 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

(5) 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.

(Pub. L. 89–10, title V, § 5602, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7281b. Maximum amount

(a) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this subpart for any fiscal year, when combined with its payment under section 7702(b) of this title, shall not be more than 50 percent of the maximum amount determined under section 7702(b) of this title.

(b) Insufficient funds

If funds appropriated under section 7241 of this title are insufficient to pay the amount deter-

mined under subsection (a) of this section, the Secretary shall ratably reduce the payment to each local educational agency eligible under this subpart.

(c) Excess funds

If funds appropriated under section 7241 of this title are in excess of the amount determined under subsection (a) of this section, the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under section 7702(b) of this title.

(Pub. L. 89–10, title V, § 5603, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867.)

SUBPART 21—WOMEN'S EDUCATIONAL EQUITY ACT

§ 7283. Short title and findings

(a) Short title

This subpart may be cited as the ''Women's Educational Equity Act of 2001''.

(b) Findings

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 of 2001 [20 U.S.C. 7283 et seq.], 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 confidence 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, § 5611, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867.)

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, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Women's Educational Equity Act of 2001, referred to in subsec. (b)(2), is subpart 21 of part D of title V of Pub. L. 89–10, as added by Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867, which is classified generally to this subpart. For complete classification of this Act to the Code, see subsec. (a) of this section and Tables.

§ 7283a. Statement of purpose

It is the purpose of this subpart—

(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, § 5612, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1868.)

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, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§ 7283b. 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 ju-

risdiction over education and related programs;

(5) to assist the Director of the Institute of Education Sciences 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 subpart.

(b) Grants authorized

(1) In general

The Secretary is authorized to award 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 4 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 subpart, 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 institutionwide 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 educational agencies and local educational agencies and institutions of higher education, including community colleges; and

(III) innovative approaches to school-community partnerships for educational equity; and

(B) for research and development, which shall be coordinated with each of the National Education Centers of the Institute of Education Sciences 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 subpart;

(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, § 5613, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1868; amended Pub. L. 107–279, title IV, § 404(d)(7), Nov. 5, 2002, 116 Stat. 1986.)

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, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 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

2002—Subsec. (a)(5). Pub. L. 107–279, § 404(d)(7)(A), substituted ''Director of the Institute of Education Sciences'' for ''Assistant Secretary of the Office of Educational Research and Improvement''.

Subsec. (b)(2)(B). Pub. L. 107–279, § 404(d)(7)(B), substituted ''National Education Centers of the Institute of Education Sciences'' for ''research institutes of the Office of Educational Research and Improvement'' in introductory provisions.

§ 7283c. Applications

An application under this subpart shall—

(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this subpart, 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) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

(3) for applications for assistance under section 7283b(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;

(4) for applications for assistance under section 7283b(b)(1) of this title, demonstrate how parental involvement in the project will be encouraged; and

(5) for applications for assistance under section 7283b(b)(1) of this title, describe plans for continuation of the activities assisted under this subpart with local support following completion of the grant period and termination of Federal support under this subpart.

(Pub. L. 89–10, title V, § 5614, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1871.)

§ 7283d. 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 7283b(b) of this title to ensure that funds under this subpart are used for programs that most effectively will achieve the purposes of this subpart.

(2) Criteria

The criteria described in paragraph (1) may include the extent to which the activities assisted under this subpart—

(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 subpart has terminated.

(b) Priorities

In awarding grants under this subpart, the Secretary may give special consideration to applications—

(1) submitted by applicants that have not received assistance under this subpart or this subpart's predecessor authorities;

(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 subpart 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 subpart 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 subpart—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative research activities which are jointly funded and carried out with the Institute of Education Sciences.

(e) Limitation

Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this subpart.

(Pub. L. 89–10, title V, § 5615, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1871; amended Pub. L. 107–279, title IV, § 404(d)(5)(D), (8), Nov. 5, 2002, 116 Stat. 1986.)

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, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''by the Institute'' for ''by the Office''.

Subsec. (d)(2). Pub. L. 107–279, § 404(d)(5)(D), substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7283e. Report

Not later than January 1, 2006, the Secretary shall submit to the President and Congress a report on the status of educational equity for girls and women in the Nation.

(Pub. L. 89–10, title V, § 5616, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1872.)

§ 7283f. Administration

(a) Evaluation and dissemination

Not later than January 1, 2005, the Secretary shall evaluate and disseminate materials and programs developed under this subpart and shall report to Congress regarding such evaluation materials and programs.

(b) Program operations

The Secretary shall ensure that the activities assisted under this subpart 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, § 5617, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1872.)

§ 7283g. Amount

From amounts made available to carry out this subpart for a fiscal year, not less than two-thirds of such amount shall be used to carry out the activities described in section 7283b(b)(1) of this title.

(Pub. L. 89–10, title V, § 5618, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1873.)

SUBCHAPTER VI—FLEXIBILITY AND ACCOUNTABILITY

CODIFICATION

Title VI of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title VI is shown, herein, as having been added by Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—IMPROVING ACADEMIC ACHIEVEMENT

SUBPART 1—ACCOUNTABILITY

§ 7301. Grants for State assessments and related activities

The Secretary shall make grants to States to enable the States—

(1) to pay the costs of the development of the additional State assessments and standards required by section 6311(b) of this title, which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State; and

(2) if a State has developed the assessments and standards required by section 6311(b) of this title, to administer those assessments or to carry out other activities described in this subpart and other activities related to ensuring that the State's schools and local educational agencies are held accountable for results, such as the following:

(A) Developing challenging State academic content and student academic achievement standards and aligned assessments in academic subjects for which standards and assessments are not required by section 6311(b) of this title.

(B) Developing or improving assessments of English language proficiency necessary to comply with section 6311(b)(7) of this title.

(C) Ensuring the continued validity and reliability of State assessments.

(D) Refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instructional materials.

(E) Developing multiple measures to increase the reliability and validity of State assessment systems.

(F) Strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement, including carrying out professional development activities aligned with State student academic achievement standards and assessments.

(G) Expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students, including professional development activities aligned with State academic achievement standards and assessments.

(H) Improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based on scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time.

(Pub. L. 89–10, title VI, § 6111, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873.)

PRIOR PROVISIONS

A prior section 7301, Pub. L. 89–10, title VI, § 6001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, set forth findings and purpose, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7301a. Grants for enhanced assessment instruments

(a) Grant program authorized

From funds made available to carry out this subpart, the Secretary shall award, on a competitive basis, grants to State educational agencies that have submitted an application at such time, in such manner, and containing such information as the Secretary may require, which demonstrate to the satisfaction of the Secretary, that the requirements of this section will be met, for the following:

(1) To enable States (or consortia of States) to collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 6311(b)(3) of this title.

(2) To measure student academic achievement using multiple measures of student academic achievement from multiple sources.

(3) To chart student progress over time.

(4) To evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance and technology-based academic assessments.

(b) Application

Each State wishing to apply for funds under this section shall include in its State plan under part A of subchapter I of this chapter such information as the Secretary may require.

(c) Annual report

Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing its activities, and the result of those activities, under the grant.

(Pub. L. 89–10, title VI, § 6112, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1874.)

§ 7301b. Funding

(a) Authorization of appropriations

(1) National assessment of educational progress

For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $72,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) State assessments and related activities

For the purpose of carrying out this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Allotment of appropriated funds

(1) In general

From amounts made available for each fiscal year under subsection (a)(2) of this section that are equal to or less than the amount described in section 6311(b)(3)(D) of this title (hereinafter in this subsection referred to as the ''trigger amount''), the Secretary shall—

(A) reserve one-half of 1 percent for the Bureau of Indian Affairs;

(B) reserve one-half of 1 percent for the outlying areas; and

(C) from the remainder, allocate to each State an amount equal to—

(i) $3,000,000; and

(ii) with respect to any amounts remaining after the allocation is made under clause (i), an amount that bears the same relationship to such total remaining amounts as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(2) Remainder

Any amounts remaining for a fiscal year after the Secretary carries out paragraph (1) shall be made available as follows:

(A)(i) To award funds under section 7301a of this title to States according to the quality, needs, and scope of the State application under that section.

(ii) In determining the grant amount under clause (i), the Secretary shall ensure that a State's grant shall include an amount that bears the same relationship to the total

funds available under this paragraph for the fiscal year as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(B) Any amounts remaining after the Secretary awards funds under subparagraph (A) shall be allocated to each State that did not receive a grant under such subparagraph, in an amount that bears the same relationship to the total funds available under this subparagraph as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(c) State defined

In this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title VI, § 6113, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1875.)

PRIOR PROVISIONS

Prior sections 7302 and 7303 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7302, Pub. L. 89–10, title VI, § 6002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, related to authorization of appropriations and duration of assistance. See section 7217e of this title.

Section 7303, Pub. L. 89–10, title VI, § 6003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, defined ''effective schools programs''.

SUBPART 2—FUNDING TRANSFERABILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

§ 7305. Short title

This subpart may be cited as the ''State and Local Transferability Act''.

(Pub. L. 89–10, title VI, § 6121, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

§ 7305a. Purpose

The purpose of this subpart is to allow States and local educational agencies the flexibility—

(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

(2) to transfer Federal funds allocated to other activities to allocations for certain activities authorized under subchapter I of this chapter.

(Pub. L. 89–10, title VI, § 6122, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

§ 7305b. Transferability of funds

(a) Transfers by States

(1) In general

In accordance with this subpart, a State may transfer not more than 50 percent of the nonadministrative State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

(A) Section 6613(a)(3) of this title.

(B) Section 6762(a)(1) of this title.

(C) Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 7112 of this title and section 7172(c)(3) of this title.

(D) Section 7211a(b) of this title.

(2) Additional funds for subchapter I

In accordance with this subpart and subject to the 50 percent limitation described in paragraph (1), a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under subchapter I of this chapter.

(b) Transfers by local educational agencies

(1) Authority to transfer funds

(A) In general

In accordance with this subpart, a local educational agency (except a local educational agency identified for improvement under section 6316(c) of this title or subject to corrective action under section 6316(c)(9)[1] of this title) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) Agencies identified for improvement

In accordance with this subpart, a local educational agency identified for improvement under section 6316(c) of this title may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year—

(i) to its allocation for school improvement for such fiscal year under section 6303 of this title; or

(ii) to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 6316(c) of this title.

(C) Additional funds for subchapter I

In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of subchapter I of this chapter for that fiscal year.

(2) Applicable provisions

A local educational agency may transfer funds under subparagraph (A), (B), or (C) of paragraph (1) from allocations made under each of the following provisions:

(A) Section 6621 of this title.

(B) Section 6762(a)(2)(A) of this title.

(C) Section 7112(b)(1) of this title.

(D) Section 7211a(a) of this title.

(c) No transfer of subchapter I funds

A State or a local educational agency may not transfer under this subpart to any other pro-

[1] So in original. Probably should be section ''6316(c)(10)''.

gram any funds allotted or allocated to it for part A of subchapter I of this chapter.

(d) Modification of plans and applications; notification

(1) State transfers

Each State that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) Local transfers

Each local educational agency that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(e) Applicable rules

(1) In general

Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

(2) Consultation

Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 7881 of this title, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

(Pub. L. 89–10, title VI, § 6123, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

SUBPART 3—STATE AND LOCAL FLEXIBILITY DEMONSTRATION

§ 7311. Short title

This subpart may be cited as the ''State and Local Flexibility Demonstration Act''.

(Pub. L. 89–10, title VI, § 6131, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

PRIOR PROVISIONS

A prior section 7311, Pub. L. 89–10, title VI, § 6101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708, related to allotment to States, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7211 of this title.

§ 7311a. Purpose

The purpose of this subpart is to create options for selected State educational agencies and local educational agencies—

(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

(3) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;

(4) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students' academic achievement and implement education reforms in their schools;

(5) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of opportunity for all students and accountability for student progress;

(6) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and

(7) to narrow achievement gaps between the lowest and highest achieving groups of students so that no child is left behind.

(Pub. L. 89–10, title VI, § 6132, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

§ 7311b. General provision

For purposes of this subpart, any State that is one local educational agency shall be considered a State educational agency and not a local educational agency.

(Pub. L. 89–10, title VI, § 6133, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

PRIOR PROVISIONS

A prior section 7312, Pub. L. 89–10, title VI, § 6102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708, which related to allocation to local educational agencies, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7211a of this title.

Division A—State Flexibility Authority

§ 7315. State flexibility

(a) Flexibility authority

Except as otherwise provided in this division, the Secretary shall, on a competitive basis, grant flexibility authority to not more than seven eligible State educational agencies, under which the agencies may consolidate and use funds in accordance with section 7315a of this title.

(b) Definitions

In this division:

(1) Eligible State educational agency

The term ''eligible State educational agency'' means a State educational agency that—

(A) submits an approvable application under subsection (c) of this section; and

(B) proposes performance agreements—

(i) that shall be entered into with not fewer than 4, and not more than 10, local educational agencies;

(ii) not fewer than half of which shall be entered into with high-poverty local educational agencies; and

(iii) that require the local educational agencies described in clause (i) to align their use of consolidated funds under section 7321a of this title with the State educational agency's use of consolidated funds under section 7315a of this title.

(2) High-poverty local educational agency

The term ''high-poverty local educational agency'' means a local educational agency for which 20 percent or more of the children who are age 5 through 17, and served by the local educational agency, are from families with incomes below the poverty line.

(c) State applications

(1) Applications

To be eligible to receive flexibility authority under this division, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(A) information demonstrating, to the satisfaction of the Secretary, that the grant of authority offers substantial promise of—

(i) assisting the State educational agency in making adequate yearly progress, as defined under section 6311(b)(2) of this title; and

(ii) aligning State and local reforms and assisting the local educational agencies that enter into performance agreements with the State educational agency under paragraph (2) in making such adequate yearly progress;

(B) the performance agreements that the State educational agency proposes to enter into with eligible local educational agencies under paragraph (2);

(C) information demonstrating that the State educational agency has consulted with and involved parents, representatives of local educational agencies, and other educators in the development of the terms of the grant of authority;

(D) a provision specifying that the grant of flexibility authority shall be for a term of not more than 5 years;

(E) a list of the programs described in section 7315a(b) of this title that are included in the scope of the grant of authority;

(F) a provision specifying that no requirements of any program described in section 7315a(b) of this title and included by a State educational agency in the scope of the grant of authority shall apply to that agency, except as otherwise provided in this division;

(G) a 5-year plan describing how the State educational agency intends to consolidate and use the funds from programs included in the scope of the grant of authority, for any educational purpose authorized under this chapter, in order to make adequate yearly progress and advance the education priorities of the State and the local educational agencies with which the State educational agency enters into performance agreements;

(H) an assurance that the State educational agency will provide parents, teachers, and representatives of local educational agencies and schools with notice and an opportunity to comment on the proposed terms of the grant of authority;

(I) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the grant of authority;

(J) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will meet the requirements of all applicable Federal civil rights laws in carrying out the grant of authority, including consolidating and using funds under the grant of authority;

(K) an assurance that, in consolidating and using funds under the grant of authority—

(i) the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will provide for the equitable participation of students and professional staff in private schools consistent with section 7881 of this title; and

(ii) that sections 7882, 7883, and 7884 of this title shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 7881 of this title;

(L) an assurance that the State educational agency will, for the duration of the grant of authority, use funds consolidated under section 7315a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds; and

(M) an assurance that the State educational agency shall, not later than 1 year after the date on which the Secretary makes the grant of authority, and annually thereafter during the term of the grant of authority, disseminate widely to parents and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report, which shall include a detailed description of how the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, used the funds consolidated under the grant of authority to make adequate yearly progress and advance the education priorities of the State and local educational agencies in the State.

(2) Proposed performance agreements with local educational agencies

(A) In general

A State educational agency that wishes to receive flexibility authority under this subpart shall propose performance agreements

that meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B) of this section (subject to approval of the application or amendment involved under subsection (d) or (e) of this section).

(B) Performance agreements

Each proposed performance agreement with a local educational agency shall—

(i) contain plans for the local educational agency to consolidate and use funds in accordance with section 7321a of this title, for activities that are aligned with the State educational agency's plan described in paragraph (1)(G);

(ii) be subject to the requirements of division B of this subpart relating to agreements between the Secretary and a local educational agency, except—

(I) that, as appropriate, references in that division to the Secretary shall be deemed to be references to the State educational agency; and

(II) as otherwise provided in this division; and

(iii) contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 7321a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

(d) Approval and selection

The Secretary shall—

(1) establish a peer review process to assist in the review of proposed State applications under this section; and

(2) appoint individuals to participate in the peer review process who are—

(A) representative of parents, teachers, State educational agencies, and local educational agencies; and

(B) familiar with educational standards, assessments, accountability, curricula, instruction, and staff development, and other diverse educational needs of students.

(e) Amendment to grant of authority

(1) In general

Subject to paragraph (2), the Secretary shall amend the grant of flexibility authority made to a State educational agency under this division, in each of the following circumstances:

(A) Reduction in scope of the grant of authority

Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to remove from the scope of the grant of authority any program described in section 7315a(b) of this title.

(B) Expansion of scope of the grant of authority

Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to include in the scope of the grant of authority any additional program described in section 7315a(b) of this title or any additional achievement indicators for which the State will be held accountable.

(C) Changes with respect to number of performance agreements

The State educational agency seeks to amend the grant of authority to include or remove performance agreements that the State educational agency proposes to enter into with eligible local educational agencies, except that in no case may the State educational agency enter into performance agreements that do not meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B) of this section.

(2) Approval and disapproval

(A) Deemed approval

A proposed amendment to a grant of flexibility authority submitted by a State educational agency pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this division.

(B) Disapproval

The Secretary shall not finally disapprove the proposed amendment, except after giving the State educational agency notice and an opportunity for a hearing.

(C) Notification

If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this division, the Secretary shall—

(i) give the State educational agency notice and an opportunity for a hearing; and

(ii) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) Response

If the State educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

(ii) the expiration of the 120-day period described in subparagraph (A).

(E) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) Treatment of program funds withdrawn from grant of authority

Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a grant of authority shall apply to the use of funds made available under the program by the State educational agency and each local educational agency with which the State educational agency has a performance agreement.

(Pub. L. 89–10, title VI, § 6141, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1879.)

§ 7315a. Consolidation and use of funds

(a) In general

(1) Authority

Under a grant of flexibility authority made under this division, a State educational agency may consolidate Federal funds described in subsection (b) of this section and made available to the agency, and use such funds for any educational purpose authorized under this chapter.

(2) Program requirements

Except as otherwise provided in this division, a State educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the State.

(b) Eligible funds and programs

(1) Funds

The funds described in this subsection are funds, for State-level activities and State administration, that are described in the following provisions:

(A) Section 6304 of this title.

(B) Paragraphs (4) and (5) of section 6362(d) of this title.

(C) Section 6613(a)(3) of this title.

(D) Section 6762(a)(1) of this title.

(E) Subsections (a) (with the agreement of the Governor), (b)(2), and (c)(1) of section 7112 of this title.

(F) Paragraphs (2) and (3) of section 7172(c) of this title.

(G) Section 7211a(b) of this title.

(2) Programs

The programs described in this subsection are the programs authorized to be carried out with funds described in paragraph (1).

(c) Special rule

A State educational agency that receives a grant of flexibility authority under this division—

(1) shall ensure that the funds described in section 7211a(a) of this title are allocated to local educational agencies in the State in accordance with section 7211a(a) of this title; but

(2) may specify how the local educational agencies shall use the allocated funds.

(Pub. L. 89–10, title VI, § 6142, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315b. Performance review and penalties

(a) Midterm review

(1) Failure to make adequate yearly progress

If, during the term of a grant of flexibility authority under this division, a State educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after providing notice and an opportunity for a hearing, terminate the grant of authority promptly.

(2) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide evidence as described in paragraph (3)), terminate a grant of flexibility authority for a State if there is evidence that the State educational agency involved has failed to comply with the terms of the grant of authority.

(3) Evidence

If a State educational agency believes that a determination of the Secretary under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final termination determination under this subsection.

(b) Final review

(1) In general

If, at the end of the 5-year term of a grant of flexibility authority made under this division, the State educational agency has not met the requirements described in section 7315(c) of this title, the Secretary may not renew the grant of flexibility authority under section 7315c of this title.

(2) Compliance

Beginning on the date on which such term ends, the State educational agency, and the local educational agencies with which the State educational agency has entered into performance agreements, shall be required to comply with each of the program requirements in effect on such date for each program that was included in the grant of authority.

(Pub. L. 89–10, title VI, § 6143, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315c. Renewal of grant of flexibility authority

(a) In general

Except as provided in section 7315b of this title and in accordance with this section, if a State educational agency has met, by the end of the original 5-year term of a grant of flexibility authority under this division, the requirements described in section 7315(c) of this title, the Secretary shall renew a grant of flexibility authority for one additional 5-year term.

(b) Renewal

The Secretary may not renew a grant of flexibility authority under this division unless, not later than 6 months before the end of the original term of the grant of authority, the State educational agency seeking the renewal notifies the Secretary, and the local educational agencies with which the State educational agency has entered into performance agreements, of the agency's intention to renew the grant of authority.

(c) Effective date

A renewal under this section shall be effective on the later of—

(1) the expiration of the original term of the grant of authority; or

(2) the date on which the State educational agency seeking the renewal provides to the Secretary all data required for the application described in section 7315(c) of this title.

(Pub. L. 89–10, title VI, § 6144, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1884.)

Division B—Local Flexibility Demonstration

§ 7321. Local flexibility demonstration agreements

(a) Authority

Except as otherwise provided in this division, the Secretary shall, on a competitive basis, enter into local flexibility demonstration agreements—

(1) with local educational agencies that submit approvable proposed agreements under subsection (c) of this section and that are selected under subsection (b) of this section; and

(2) under which those agencies may consolidate and use funds in accordance with section 7321a of this title.

(b) Selection of local educational agencies

(1) In general

Subject to paragraph (2), the Secretary shall enter into local flexibility demonstration agreements under this division with not more than 80 local educational agencies. Each local educational agency shall be selected on a competitive basis from among those local educational agencies that—

(A) submit a proposed local flexibility demonstration agreement under subsection (c) of this section to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

(i) has a substantial promise of assisting the local educational agency in meeting the State's definition of adequate yearly progress, advancing the education priorities of the local educational agency, meeting the general purposes of the programs included under this division and the purposes of this part, improving student achievement, and narrowing achievement gaps in accordance with section 6311(b) of this title;

(ii) meets the requirements of this division; and

(iii) contains a plan to consolidate and use funds in accordance with section 7321a of this title in order to meet the State's definition of adequate yearly progress and the local educational agency's specific, measurable goals for improving student achievement and narrowing achievement gaps; and

(B) have consulted and involved parents and other educators in the development of the proposed local flexibility demonstration agreement.

(2) Geographic distribution

(A) Initial agreements

The Secretary may enter into not more than three local flexibility demonstration agreements under this division with local educational agencies in each State that does not have a grant of flexibility authority under division A of this subpart.

(B) Urban and rural areas

If more than three local educational agencies in a State submit approvable local flexibility demonstration agreements under this division, the Secretary shall select local educational agencies with which to enter into such agreements in a manner that ensures an equitable distribution among such agencies serving urban and rural areas.

(C) Priority of States to enter into State flexibility demonstration agreements

Notwithstanding any other provision of this part, a local educational agency may not seek to enter into a local flexibility demonstration agreement under this division if that agency is located in a State for which the State educational agency—

(i) has, not later than 4 months after January 8, 2002, notified the Secretary of its intent to apply for a grant of flexibility authority under division A of this subpart and, within such period of time as the Secretary may establish, is provided with such authority by the Secretary; or

(ii) has, at any time after such period, been granted flexibility authority under division A of this subpart.

(c) Required terms of local flexibility demonstration agreement

Each local flexibility demonstration agreement entered into with the Secretary under this division shall contain each of the following terms:

(1) Duration

The local flexibility demonstration agreement shall be for a term of 5 years.

(2) Application of program requirements

The local flexibility demonstration agreement shall provide that no requirements of any program described in section 7321a of this title and included by a local educational agency in the scope of its agreement shall apply to that agency, except as otherwise provided in this division.

(3) List of programs

The local flexibility demonstration agreement shall list which of the programs described in section 7321a of this title are included in the scope of the agreement.

(4) Use of funds to improve student achievement

The local flexibility demonstration agreement shall contain a 5-year plan describing how the local educational agency intends to consolidate and use the funds from programs included in the scope of the agreement for any educational purpose authorized under this chapter to advance the education priorities of the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps in accordance with section 6311(b) of this title.

(5) Local input

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will provide parents, teachers, and representatives of schools with notice and an opportunity to comment on the proposed terms of the local flexibility demonstration agreement.

(6) Fiscal responsibilities

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the agreement.

(7) Civil rights

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

(8) Private school participation

The local flexibility demonstration agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the agreement—

(A) the local educational agency, will provide for the equitable participation of students and professional staff in private schools consistent with section 7881 of this title; and

(B) that sections 7882, 7883, and 7884 of this title shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 7881 of this title.

(9) Supplanting

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 7321a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

(10) Annual reports

The local flexibility demonstration agreement shall contain an assurance that the local educational agency shall, not later than 1 year after the date on which the Secretary enters into the agreement, and annually thereafter during the term of the agreement, disseminate widely to parents and the general public, transmit to the Secretary, and the State educational agency for the State in which the local educational agency is located, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

(d) Peer review

The Secretary shall—

(1) establish a peer review process to assist in the review of proposed local flexibility demonstration agreements under this division; and

(2) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

(e) Amendment to performance agreement

(1) In general

In each of the following circumstances, the Secretary shall amend a local flexibility demonstration agreement entered into with a local educational agency under this division:

(A) Reduction in scope of local flexibility demonstration agreement

Not later than 1 year after entering into a local flexibility demonstration agreement, the local educational agency seeks to amend the agreement to remove from the scope any program described in section 7321a of this title.

(B) Expansion of scope of local flexibility demonstration agreement

Not later than 1 year after entering into the local flexibility demonstration agreement, a local educational agency seeks to amend the agreement to include in its scope any additional program described in section 7321a of this title[1] or any additional achievement indicators for which the local educational agency will be held accountable.

(2) Approval and disapproval

(A) Deemed approval

A proposed amendment to a local flexibility demonstration agreement pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this division.

(B) Disapproval

The Secretary shall not finally disapprove the proposed amendment, except after giving

[1] See References in Text note below.

the local educational agency notice and an opportunity for a hearing.

(C) Notification

If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this division, the Secretary shall—

(i) give the local educational agency notice and an opportunity for a hearing; and

(ii) notify the local educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) Response

If the local educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

(ii) the expiration of the 120-day period described in subparagraph (A).

(E) Failure to respond

If the local educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) Treatment of program funds withdrawn from agreement

Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a local flexibility demonstration agreement shall apply to the use of funds made available under the program by the local educational agency.

(Pub. L. 89–10, title VI, § 6151, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1884.)

REFERENCES IN TEXT

Section 7321a of this title, referred to in subsec. (e)(1)(B), was in the original ''section 6251'', meaning section 6251 of Pub. L. 89–10, which was translated as reading section 6152 of that Act to reflect the probable intent of Congress, because that Act does not contain a section 6251, and section 6152 of that Act describes programs.

§ 7321a. Consolidation and use of funds

(a) In general

(1) Authority

Under a local flexibility demonstration agreement entered into under this division, a local educational agency may consolidate Federal funds made available to the agency under the provisions listed in subsection (b) of this section and use such funds for any educational purpose permitted under this chapter.

(2) Program requirements

Except as otherwise provided in this division, a local educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the agency.

(b) Eligible programs

Program funds made available to local educational agencies on the basis of a formula under the following provisions may be consolidated and used under subsection (a) of this section:

(1) Subpart 2 of part A of subchapter II of this chapter.

(2) Subpart 1 of part D of subchapter II of this chapter.

(3) Subpart 1 of part A of subchapter IV of this chapter.

(4) Subpart 1 of part A of subchapter V of this chapter.

(Pub. L. 89–10, title VI, § 6152, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1888.)

§ 7321b. Limitations on administrative expenditures

Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this division may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the agreement.

(Pub. L. 89–10, title VI, § 6153, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321c. Performance review and penalties

(a) Midterm review

(1) Failure to make adequate yearly progress

If, during the term of a local flexibility demonstration agreement, a local educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after notice and opportunity for a hearing, promptly terminate the agreement.

(2) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided for in paragraph (3)), terminate a local flexibility demonstration agreement under this division if there is evidence that the local educational agency has failed to comply with the terms of the agreement.

(3) Evidence

If a local educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that

evidence before making a final early termination determination.

(b) Final review

If, at the end of the 5-year term of a local flexibility demonstration agreement entered into under this division, the local educational agency has not met the requirements described in section 7321(c) of this title, the Secretary may not renew the agreement under section 7321d of this title and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the local flexibility demonstration agreement.

(Pub. L. 89–10, title VI, § 6154, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321d. Renewal of local flexibility demonstration agreement

(a) In general

Except as provided in section 7321c of this title and in accordance with this section, the Secretary shall renew for one additional 5-year term a local flexibility demonstration agreement entered into under this division if the local educational agency has met, by the end of the original term of the agreement, the requirements described in section 7321(c) of this title.

(b) Notification

The Secretary may not renew a local flexibility demonstration agreement under this division unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

(c) Effective date

A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

(Pub. L. 89–10, title VI, § 6155, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321e. Reports

(a) Transmittal to Congress

Not later than 60 days after the Secretary receives a report described in section 7321(b)(10)[1] of this title, the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(b) Limitation

A State in which a local educational agency that has a local flexibility demonstration agreement is located may not require such local educational agency to provide any application information with respect to the programs included within the scope of that agreement other than that information that is required to be included in the report described in section 7321(b)(10)[1] of this title.

[1] So in original. Probably should be section "7321(c)(10)".

(Pub. L. 89–10, title VI, § 6156, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

SUBPART 4—STATE ACCOUNTABILITY FOR ADEQUATE YEARLY PROGRESS

§ 7325. Accountability for adequate yearly progress

In the case of a State educational agency that has a plan approved under subpart 1 of part A of subchapter I of this chapter after January 8, 2002, and has a plan approved under subpart 1 of part A of subchapter III of this chapter after January 8, 2002, the Secretary shall annually, starting with the beginning of the first school year following the first two school years for which such plans were implemented, review whether the State has—

(1) made adequate yearly progress, as defined in section 6311(b)(2)(B) of this title, for each of the groups of students described in section 6311(b)(2)(C)(v) of this title; and

(2) met its annual measurable achievement objectives under section 6842(a) of this title.

(Pub. L. 89–10, title VI, § 6161, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325a. Peer review

The Secretary shall use a peer review process to review, based on data from the State assessments administered under section 6311(b)(3) of this title and on data from the evaluations conducted under section 6841 of this title, whether the State has failed to make adequate yearly progress for 2 consecutive years or whether the State has met its annual measurable achievement objectives.

(Pub. L. 89–10, title VI, § 6162, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325b. Technical assistance

(a) Provision of assistance

(1) Adequate yearly progress

Based on the review described in section 7325(1) of this title, the Secretary shall provide technical assistance to a State that has failed to make adequate yearly progress, as defined in section 6311(b)(2) of this title, for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

(2) Annual measurable achievement objectives

Based on the reviews described in section 7325(2) of this title, the Secretary may provide technical assistance to a State that has failed to meet its annual measurable achievement objectives under section 6842(a) of this title for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

(b) Characteristics

The technical assistance described in subsection (a) of this section shall—

(1) be valid, reliable and rigorous; and

(2) provide constructive feedback to help the State make adequate yearly progress, as de-

fined in section 6311(b)(2) of this title, or meet the annual measurable achievement objectives under section 6842(a) of this title.

(Pub. L. 89–10, title VI, § 6163, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325c. Report to Congress

Beginning with the school year that begins in 2005, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate containing the following:

(1) A list of each State that has not made adequate yearly progress based on the review conducted under section 7325(1) of this title.

(2) A list of each State that has not met its annual measurable achievement objectives based on the review conducted under section 7325(2) of this title.

(3) The information reported by the State to the Secretary pursuant to section 6319(a) of this title.

(4) A description of any technical assistance provided pursuant to section 7325b of this title.

(Pub. L. 89–10, title VI, § 6164, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

Prior sections 7331 and 7332 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7331, 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, related to State uses of funds. See section 7213 of this title.

Section 7332, Pub. L. 89–10, title VI, § 6202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3710, related to State applications. See section 7213a of this title.

PART B—RURAL EDUCATION INITIATIVE

§ 7341. Short title

This part may be cited as the ''Rural Education Achievement Program''.

(Pub. L. 89–10, title VI, § 6201, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

A prior section 6201 of Pub. L. 89–10 was classified to section 7331 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 6201 of Pub. L. 89–10 was classified to section 3271 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7341a. Purpose

It is the purpose of this part to address the unique needs of rural school districts that frequently—

(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

(Pub. L. 89–10, title VI, § 6202, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

A prior section 6202 of Pub. L. 89–10 was classified to section 7332 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 6202 of Pub. L. 89–10 was classified to section 3272 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—SMALL, RURAL SCHOOL ACHIEVEMENT PROGRAM

§ 7345. Use of applicable funding

(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 under any of the following provisions:

(A) Part A of subchapter I of this chapter.

(B) Part A or D of subchapter II of this chapter.

(C) Subchapter III of this chapter.

(D) Part A or B of subchapter IV of this chapter.

(E) Part A of subchapter V of this chapter.

(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), by a date that is established by the State educational agency for the notification.

(b) Eligibility

(1) In general

A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) of this section if—

(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

(ii) 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; or

(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

(2) Certification

The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(c) Applicable funding defined

In this section, the term ''applicable funding'' means funds provided under any of the following provisions:

(1) Subpart 2 of this part and section 6762(a)(2)(A) of this title.

(2) Section 7114 of this title.

(3) Part A of subchapter V of this chapter.

(d) Disbursement

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 as 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) Applicable rules

Applicable funding under this section shall be available to carry out local activities authorized under subsection (a) of this section.

(Pub. L. 89–10, title VI, § 6211, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

§ 7345a. 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 activities authorized under any of the following provisions:

(1) Part A of subchapter I of this chapter.

(2) Part A or D of subchapter II of this chapter.

(3) Subchapter III of this chapter.

(4) Part A or B of subchapter IV of this chapter.

(5) Part A of subchapter V of this chapter.

(b) Allocation

(1) In general

Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) of this section to a local educational agency eligible under section 7345(b) of this title for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 7345(c) of this title for the preceding fiscal year.

(2) Determination of initial amount

The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the initial amount may not exceed $60,000.

(3) Ratable adjustment

(A) In general

If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

(B) Additional amounts

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.

(c) Disbursement

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 fiscal year.

(d) Special eligibility rule

A local educational agency that is eligible to receive a grant under this subpart for a fiscal year is not eligible to receive funds for such fiscal year under subpart 2 of this part.

(Pub. L. 89–10, title VI, § 6212, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1892.)

§ 7345b. Accountability

(a) Academic achievement assessment

Each local educational agency that uses or receives funds under this subpart for a fiscal year shall administer an assessment that is consistent with section 6311(b)(3) of this title.

(b) Determination regarding continuing participation

Each State educational agency that receives funding under the provisions of law described in section 7345(c) of this title shall—

(1) after the third year that a local educational agency in the State participates in a program under this subpart and on the basis of the results of the assessments described in subsection (a) of this section, determine whether the local educational agency participating in the program made adequate yearly progress, as described in section 6311(b)(2) of this title;

(2) permit only those local educational agencies that participated and made adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to participate; and

(3) permit those local educational agencies that participated and failed to make adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to participate only if such local educational agencies use applicable funding under this subpart to carry out the requirements of section 6316 of this title.

(Pub. L. 89–10, title VI, § 6213, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1893.)

SUBPART 2—RURAL AND LOW-INCOME SCHOOL PROGRAM

§ 7351. Program authorized

(a) Grants to States

(1) In general

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year that are not reserved under subsection (c) of this section, the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 7351b of this title ap-

proved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 7351a(a) of this title.

(2) Allotment

From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) Specially qualified agencies

(A) Eligibility and application

If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 7351b of this title approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

(B) Direct awards

The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

(C) Specially qualified agency defined

In this subpart, the term ''specially qualified agency'' means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) Local awards

(1) Eligibility

A local educational agency shall be eligible to receive a grant under this subpart if—

(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

(B) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, as determined by the Secretary.

(2) Award basis

A State educational agency shall award grants to eligible local educational agencies—

(A) on a competitive basis;

(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) Reservations

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Affairs, to carry out the activities authorized under this subpart; and

(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

(Pub. L. 89–10, title VI, § 6221, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1894.)

PRIOR PROVISIONS

A prior section 7351, 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, related to targeted use of funds for local innovative education programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7215 of this title.

§ 7351a. Uses of funds

(a) Local awards

Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

(1) Teacher recruitment and retention, including the use of signing bonuses and other financial incentives.

(2) Teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers.

(3) Educational technology, including software and hardware, as described in part D of subchapter II of this chapter.

(4) Parental involvement activities.

(5) Activities authorized under the Safe and Drug-Free Schools program under part A of subchapter IV of this chapter.

(6) Activities authorized under part A of subchapter I of this chapter.

(7) Activities authorized under subchapter III of this chapter.

(b) Administrative costs

A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

(Pub. L. 89–10, title VI, § 6222, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1895.)

§ 7351b. Applications

(a) In general

Each State educational agency or specially qualified agency desiring to receive 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 require.

(b) Contents

At a minimum, each application submitted under subsection (a) of this section shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

(1) increased student academic achievement;

(2) decreased student dropout rates; or

(3) such other factors as the State educational agency or specially qualified agency may choose to measure.

(Pub. L. 89–10, title VI, § 6223, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1895.)

§ 7351c. Accountability

(a) State report

Each State educational agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe—

(1) the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

(2) how local educational agencies and schools used funds provided under this subpart; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 7351b of this title.

(b) Specially qualified agency report

Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

(1) how such agency uses funds provided under this subpart; and

(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 7351b of this title.

(c) Report to Congress

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

(1) the methods the State educational agencies used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

local[1] educational agencies and schools used funds provided under this subpart; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under section 7351b of this title.

(d) Academic achievement assessment

Each local educational agency or specially qualified agency that receives a grant under this subpart for a fiscal year shall administer an assessment that is consistent with section 6311(b)(3) of this title.

(e) Determination regarding continuing participation

Each State educational agency or specially qualified agency that receives a grant under this subpart shall—

(1) after the third year that a local educational agency or specially qualified agency in the State receives funds under this subpart, and on the basis of the results of the assessments described in subsection (d) of this section—

(A) in the case of a local educational agency, determine whether the local educational agency made adequate yearly progress, as described in section 6311(b)(2) of this title; and

(B) in the case of a specially qualified agency, submit to the Secretary information that would allow the Secretary to determine whether the specially qualified agency has made adequate yearly progress, as described in section 6311(b)(2) of this title;

(2) permit only those local educational agencies or specially qualified agencies that made adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive grants under this subpart; and

(3) permit those local educational agencies or specially qualified agencies that failed to make adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive such grants only if the State educational agency disbursed such grants to the local educational agencies or specially qualified agencies to carry out the requirements of section 6316 of this title.

(Pub. L. 89–10, title VI, § 6224, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1896.)

PRIOR PROVISIONS

Prior sections 7352 and 7353 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7352, Pub. L. 89–10, title VI, § 6302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to administrative authority. See section 7215a of this title.

Section 7353, Pub. L. 89–10, title VI, § 6303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to local applications for allocations of funds. See section 7215b of this title.

SUBPART 3—GENERAL PROVISIONS

§ 7355. Annual average daily attendance determination

(a) Census determination

Each local educational agency desiring a grant under section 7345a of this title and each local educational agency or specially qualified agency desiring a grant under subpart 2 of this part shall—

(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

(2) not later than March 1 of each year, submit the number described in paragraph (1) to

[1] So in original. Probably should be preceded by "(2) how".

the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart (2)).[1]

(b) Penalty

If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) of this section for the purpose of gaining additional funds under section 7345a of this title or subpart 2 of this part, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 7345a of this title or subpart 2 of this part if the agency had submitted accurate information under subsection (a) of this section.

(Pub. L. 89–10, title VI, § 6231, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355a. Supplement, not supplant

Funds made available under subpart 1 or subpart 2 of this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title VI, § 6232, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355b. Rule of construction

Nothing in this part 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 part.

(Pub. L. 89–10, title VI, § 6233, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355c. Authorization of appropriations

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, to be distributed equally between subparts 1 and 2 of this part.

(Pub. L. 89–10, title VI, § 6234, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

PART C—GENERAL PROVISIONS

§ 7371. Prohibition against 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, academic achievement standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this chapter.

(Pub. L. 89–10, title VI, § 6301, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

[1] So in original. Probably should be "subpart 2)."

PRIOR PROVISIONS

A prior section 7371, Pub. L. 89–10, title VI, § 6401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3712, related to maintenance of effort and supplementary nature of Federal funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217 of this title.

A prior section 6301 of Pub. L. 89–10 was classified to section 7351 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7372. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title VI, § 6302, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1898.)

PRIOR PROVISIONS

A prior section 7372, Pub. L. 89–10, title VI, § 6402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3713, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217a of this title.

A prior section 6302 of Pub. L. 89–10 was classified to section 7352 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 7373, Pub. L. 89–10, title VI, § 6403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3715, which related to Federal administration, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7217b of this title.

SUBCHAPTER VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

CODIFICATION

Title VII of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title VII is shown, herein, as having been added by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—INDIAN EDUCATION

§ 7401. Statement of policy

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

(Pub. L. 89–10, title VII, § 7101, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.)

PRIOR PROVISIONS

A prior section 7401, Pub. L. 89–10, title VII, § 7101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3716, set forth short title of Bilingual Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

SAVINGS PROVISIONS

Pub. L. 107–110, title VII, § 703, Jan. 8, 2002, 115 Stat. 1947, provided that: ''Funds appropriated for parts A, B, and C of title IX of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7801 et seq., 7901 et seq., 7931 et seq.] (as in effect on the day before the date of enactment of this Act [Jan. 8, 2002]) shall be available for use under parts A, B, and C, respectively, of title VII of such Act [parts A, B, and C, respectively, of this subchapter], as added by this section [section 701].''

EXECUTIVE ORDER NO. 13096

Ex. Ord. No. 13096, Aug. 6, 1998, 63 F.R. 42681, which related to American Indian and Alaska Native education, was revoked by Ex. Ord. No. 13336, § 9(b), Apr. 30, 2004, 69 F.R. 25297, formerly set out below.

EXECUTIVE ORDER NO. 13336

Ex. Ord. No. 13336, Apr. 30, 2004, 69 F.R. 25295, which established the Interagency Working Group on American Indian and Alaska Native Education and required a study, report, and conference relating to American Indian and Alaska Native students' achievement under the No Child Left Behind Act of 2001, was revoked by Ex. Ord. No. 13592, § 5(c), Dec. 2, 2011, 76 F.R. 76607, set out below.

EX. ORD. NO. 13592. IMPROVING AMERICAN INDIAN AND ALASKA NATIVE EDUCATIONAL OPPORTUNITIES AND STRENGTHENING TRIBAL COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13592, Dec. 2, 2011, 76 F.R. 76603, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. *Policy*. The United States has a unique political and legal relationship with the federally recognized American Indian and Alaska Native (AI/AN) tribes across the country, as set forth in the Constitution of the United States, treaties, Executive Orders, and court decisions. For centuries, the Federal Government's relationship with these tribes has been guided by a trust responsibility—a long-standing commitment on the part of our Government to protect the unique rights and ensure the well-being of our Nation's tribes, while respecting their tribal sovereignty. In recognition of that special commitment—and in fulfillment of the solemn obligations it entails—Federal agencies must help improve educational opportunities provided to all AI/AN students, including students attending public schools in cities and in rural areas, students attending schools operated and funded by the Department of the Interior's Bureau of Indian Education (BIE), and students attending postsecondary institutions, including Tribal Colleges and Universities (TCUs). This is an urgent need. Recent studies show that AI/AN students are dropping out of school at an alarming rate, that our Nation has made little or no progress in closing the achievement gap between AI/AN students and their non-AI/AN student counterparts, and that many Native languages are on the verge of extinction.

It is the policy of my Administration to support activities that will strengthen the Nation by expanding educational opportunities and improving educational outcomes for all AI/AN students in order to fulfill our commitment to furthering tribal self-determination and to help ensure that AI/AN students have an opportunity to learn their Native languages and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives.

My Administration is also committed to improving educational opportunities for students attending TCUs. TCUs maintain, preserve, and restore Native languages and cultural traditions; offer a high-quality college education; provide career and technical education, job training, and other career-building programs; and often serve as anchors in some of the country's poorest and most remote areas.

SEC. 2. *Definitions*. (a) ''Agency'' means any executive department or agency designated by the Secretary of Education and the Secretary of the Interior to participate in this order.

(b) ''Indian tribe'' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a [et seq.].

(c) ''American Indian and Alaska Native'' means a member of an Indian tribe, as membership is defined by the tribe.

(d) ''Public school'' means a Head Start center or a pre-kindergarten, elementary, or secondary school that is predominantly funded by public means through the Federal Government, a State, a local educational agency, or an Indian tribal government, including a school operated directly by or through contract or grant with the BIE, an Indian tribe, or a State, county, or local government.

(e) ''Tribal Colleges and Universities'' are those institutions that are chartered by their respective Indian tribes through the sovereign authority of the tribes or by the Federal Government, and defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c).

SEC. 3. *White House Initiative on American Indian and Alaska Native Education*.

(a) *Establishment*. There is hereby established the White House Initiative on American Indian and Alaska Native Education (Initiative). The Secretary of Education and the Secretary of the Interior will co-chair the Initiative. The Secretary of Education shall appoint an Executive Director who shall be responsible for overseeing implementation of the Initiative. This individual shall be a senior-level, Department of Education official who shall serve as the Secretary of Education's senior policy advisor on Federal policies affecting AI/AN education.

The Executive Director shall work closely with the BIE Director and shall provide periodic reports to the Secretaries of Education and the Interior regarding progress achieved under the Initiative. The Executive Director shall coordinate frequent consultations with tribal officials and shall provide staff support for the National Advisory Council on Indian Education (NACIE), authorized by section 7141 of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 7471).

(b) *Mission and Functions*. (1) The Initiative shall help expand educational opportunities and improve educational outcomes for all AI/AN students, including opportunities to learn their Native languages, cultures, and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives, by:

(i) working closely with the Executive Office of the President to help ensure AI/AN participation in the development and implementation of key Administration priorities;

(ii) strengthening the relationship between the Department of Education, which has substantial expertise and resources to help improve Indian education, and the Department of the Interior and its BIE, which directly operates or provides grants to tribes to operate an extensive primary, secondary, and college level school system for AI/AN children and young adults;

(iii) coordinating, in consultation with the Department of Education's Director of Indian Education, programs administered by the Department of Education and other executive branch agencies regarding AI/AN education;

(iv) serving as a liaison with other executive branch agencies on AI/AN issues and advising those agencies on how they might help to promote AI/AN educational opportunities;

(v) reporting on the development, implementation, and coordination of education policy and programs that affect AI/AN students;

(vi) furthering tribal sovereignty by supporting efforts, consistent with applicable law, to build the capacity of tribal educational agencies and TCUs to provide high-quality education services to AI/AN children;

(vii) developing in partnership with tribal educational agencies a more routine and streamlined process for entering into agreements for educational studies conducted on tribal lands;

(viii) developing sufficient data resources to inform progress on Federal performance indicators, in close collaboration with the Department of Education's National Center for Educational Statistics;

(ix) encouraging and coordinating Federal partnerships with public, private, philanthropic, and nonprofit entities to help increase the readiness of AI/AN students for school, college, and careers, and to help increase the number and percentage of AI/AN students completing college; and

(x) developing a national network of individuals, organizations, and communities to share best practices in AI/AN education and encouraging them to implement these practices.

(2) In order to help expand educational opportunities and improve education outcomes for AI/AN students, the Initiative shall promote, encourage, and undertake efforts, consistent with applicable law, to meet the following objectives:

(i) increasing the number and percentage of AI/AN children who enter kindergarten ready for success through improved access to high-quality early learning programs and services, including Native language immersion programs, that encourage the learning and development of AI/AN children from birth through age five;

(ii) supporting the expanded implementation of education reform strategies that have shown evidence of success in enabling AI/AN students to acquire a rigorous and well-rounded education and increasing their access to the support services that prepare them for college, careers, and civic involvement;

(iii) increasing the number and percentage of AI/AN students who have access to excellent teachers and school leaders, including effective science, technology, engineering, and mathematics (STEM), language, and special education teachers, in part by supporting efforts to improve the recruitment, development, and retention of effective AI/AN teachers and other effective teachers and school leaders, particularly through TCUs;

(iv) reducing the AI/AN student dropout rate and helping a greater number and percentage of those students who stay in high school to be ready for college and careers by the time of their graduation and college completion, in part by promoting a positive school climate and supporting successful and innovative dropout-prevention and recovery strategies that better engage AI/AN youths in their learning and help them catch up academically;

(v) providing pathways that enable those who have dropped out to reenter educational or training programs and acquire degrees, certificates, or industry-recognized credentials and obtain quality jobs, and expanding access to high-quality education programs leading to career advancement, especially in the STEM fields, by supporting adult, career, and technical education;

(vi) increasing college access and completion for AI/AN students through strategies to strengthen the capacity of postsecondary institutions, particularly TCUs; and

(vii) helping to ensure that the unique cultural, educational, and language needs of AI/AN students are met.

(3) To facilitate a new partnership between the Department of Education and the Department of the Interior, to improve AI/AN education, the Executive Director shall work with the BIE Director and develop a Memorandum of Understanding (MOU) between the two Departments that will take advantage of both Departments' expertise, resources, and facilities. The MOU shall be completed within 120 days of the date of this order. Among other things, the MOU shall address how the Departments will collaborate in carrying out the policy set out in section 1 of this order.

(c) *Funding and Administrative Support*. Subject to the availability of appropriations, the Department of Education shall fund the Initiative, including NACIE. The Department shall also provide administrative support for the Initiative to the extent permitted by law and within existing appropriations.

(d) *Interagency Working Group*. There is established the Interagency Working Group on AI/AN education and TCUs, which shall be convened by the Initiative's Executive Director. The Working Group shall consist of senior officials from the Department of Education and the Department of the Interior and officials from the Departments of Justice, Agriculture, Labor, Health and Human Services, and Energy, the Environmental Protection Agency, and the White House Domestic Policy Council, as well as such additional agencies and offices as the Secretaries of Education and the Interior may designate. Senior officials shall be designated by the heads of their respective agencies and offices. The Secretaries of Education and the Interior shall serve as the co-chairs of the Interagency Working Group.

(e) *Federal Agency Plans*. (1) Each agency designated by the co-chairs as a member of the Interagency Working Group shall develop and implement a two-part, 4-year plan of the agency's efforts to fulfill the purposes of this order, with part one of the plan focusing on all AI/AN students except for those attending TCUs, and part two focusing on AI/AN students attending TCUs. Each agency plan shall include:

(i) annual performance indicators and appropriate measurable objectives with which the agency will measure its success in meeting the goals of this order;

(ii) information on how the agency intends to increase the capacity of educational agencies and institutions, including our Nation's public schools and TCUs, to deliver high-quality education and related social services to all AI/AN students; and

(iii) agency efforts to enhance the ability of these educational agencies and institutions serving AI/AN students to compete effectively for grants, contracts, cooperative agreements, and other Federal resources with which to serve the education needs of AI/AN students, and to encourage eligible schools and colleges serving those students to apply for Federal grants and participate in Federal education programs, as appropriate. Agency plans may also emphasize access to high-quality educational opportunities for AI/AN students, consistent with requirements of the ESEA, the Individuals with Disabilities Education Act, and other applicable Federal education statutes; the preservation and revitalization of tribal languages and cultural traditions; and innovative approaches to more seamlessly align early learning, elementary, and secondary education programs with the work of TCUs.

(2) *Submission*. Each agency shall submit its plan to the Initiative by a deadline established by the co-chairs. In consultation with NACIE, the Initiative shall then review agency plans and develop, for submission to the President, a synthesized interagency plan to achieve the aims of this order.

(3) *Annual Performance Reports*. Each agency shall submit to the Initiative an Annual Performance Report that measures the agency's performance against the objectives set forth in its plan. In consultation with NACIE, the Initiative shall review and combine Annual Performance Reports from the various agencies into one annual report, which shall be submitted to the Secretaries of Education and the Interior for review.

(f) *Private Sector*. In consultation with NACIE, and consistent with applicable law, the Interagency Working Group, led by the Executive Director, shall encourage the private sector to assist State- and locally-operated public schools that serve large numbers of AI/AN students, including those attending our Nation's public schools, publicly-funded preschools, and TCUs, through increased use of such strategies as:

(1) Providing funds to support the preservation and revitalization of Native languages and cultures;

(2) Providing funds to support increased institutional endowments;

(3) Helping these schools develop expertise in financial and facilities management, information systems, and curricula; and

(4) Providing resources for the hiring and training of effective teachers and administrators.

SEC. 4. *Study*. In carrying out this order, the Secretaries of Education and the Interior shall study and collect information on the education of AI/AN students.

SEC. 5. *General Provisions*. (a) NACIE shall serve as the Initiative's advisory committee.

(b) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Initiative, any functions of the President under that Act, except for those of reporting to the Congress, shall be performed by the Secretary of Education, in consultation with the Secretary of the Interior, in accordance with the guidelines issued by the Administrator of General Services.

(c) This order revokes Executive Order 13270 of July 3, 2002, Executive Order 13336 of April 30, 2004, and section 1(n) of Executive Order 13585 of September 30, 2011.

(d) The heads of agencies shall assist and provide such information to the Initiative as may be necessary to carry out its functions, consistent with applicable law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) authority granted by law to an executive department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 7402. 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 unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

(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 unique 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 VII, § 7102, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.)

PRIOR PROVISIONS

A prior section 7402, Pub. L. 89–10, title VII, § 7102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716, set forth findings, policy, and purpose of Bilingual Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7403 to 7405 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7403, Pub. L. 89–10, title VII, § 7103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718, authorized appropriations for bilingual education. See section 6801 of this title.

Section 7404, Pub. L. 89–10, title VII, § 7104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718, related to Native American and Alaska Native children in school. See sections 6822 and 6893 of this title.

Section 7405, Pub. L. 89–10, title VII, § 7105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, related to residents of territories and freely associated nations. See section 6894 of this title.

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 7421. Purpose

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

(1) are based on challenging State academic content and student academic achievement standards that are used for all students; and

(2) are designed to assist Indian students in meeting those standards.

(Pub. L. 89–10, title VII, § 7111, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1908.)

PRIOR PROVISIONS

A prior section 7421, Pub. L. 89–10, title VII, § 7111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, related to financial assistance for bilingual education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6911 of this title.

§ 7422. Grants to local educational agencies and tribes

(a) In general

The Secretary may make grants, from allocations made under section 7423 of this title, to local educational agencies and Indian tribes, in accordance with this section and section 7423 of this title.

(b) Local educational agencies

(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 7427 of this title 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.

(c) Indian tribes

(1) In general

If a local educational agency that is otherwise eligible for a grant under this subpart

does not establish a committee under section 7424(c)(4) of this title for such grant, an Indian tribe that represents not less than ½ 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, except that any such tribe is not subject to section 7424(c)(4), section 7428(c), or section 7429 of this title.

(Pub. L. 89–10, title VII, § 7112, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1908.)

PRIOR PROVISIONS

A prior section 7422, Pub. L. 89–10, title VII, § 7112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, related to program development and implementation grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7423. 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 that 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 7427 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 of all the States.

(2) Reduction

The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e) of this section.

(b) Minimum grant

(1) In general

Notwithstanding subsection (e) of this section, an entity that is eligible for a grant under section 7422 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 subpart.

(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 the quality of the programs provided.

(c) Definition

For the purpose of this section, the term ''average per pupil expenditure'', used with respect to 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 the Bureau of Indian Affairs

(1) In general

Subject to subsection (e) of this section, in addition to the grants awarded under subsection (a) of this section, the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(A) the total number of Indian children enrolled in schools that are operated by—

(i) the Bureau of Indian Affairs; or

(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that 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 [25 U.S.C. 2501 et seq.]; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which the school is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) Special rule

Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7424 of this title, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 7424(c)(4) of this title, section 7428(c) of this title, or section 7429 of this title.

(e) Ratable reductions

If the sums appropriated for any fiscal year under section 7492(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 VII, § 7113, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1908.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(1)(A)(ii), 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)(A)(ii), 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.

PRIOR PROVISIONS

A prior section 7423, Pub. L. 89–10, title VII, § 7113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3720, related to program enhancement projects, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6912 of this title.

§ 7424. 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 description of 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) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is consistent with the State and local plans submitted under other provisions of this chapter; and

(B) includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under subchapter I of this chapter for all children;

(3) explains how Federal, State, and local programs, especially programs carried out 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 7425 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 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 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 prepare and submit to the Secretary such reports, 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 activities carried out with 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 comprehensive local assessment and prioritization of the unique 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 through public hearings held by such agency to provide to 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;

(ii) teachers in the schools; and

(iii) if appropriate, Indian students attending secondary schools of the agency;

(B) a majority of whose members are parents of Indian children;

(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which as-

sistance 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 7425(c) of this title, that 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 Indian and Alaska Native students; and

(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

(Pub. L. 89–10, title VII, § 7114, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1910.)

PRIOR PROVISIONS

A prior section 7424, Pub. L. 89–10, title VII, § 7114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3721, related to comprehensive school grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6913 of this title.

§ 7425. 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 7421 of this title, for services and activities that—

(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7424(a) 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 academic content and student academic achievement standards;

(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.], including programs for tech-prep education, mentoring, and apprenticeship;

(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7421 of this title;

(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

(10) family literacy services; and

(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

(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 established pursuant to section 7424(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 7421 of this title.

(d) Limitation on administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VII, § 7115, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1912; amended Pub. L. 109–270, § 2(f)(4), Aug. 12, 2006, 120 Stat. 747.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(5), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, 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.

PRIOR PROVISIONS

A prior section 7425, Pub. L. 89–10, title VII, § 7115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3722, related to systemwide improvement grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6913 of this title.

AMENDMENTS

2006—Subsec. (b)(5). Pub. L. 109–270 substituted ''Carl D. Perkins Career and Technical Education Act of 2006'' for ''Carl D. Perkins Vocational and Technical Education Act of 1998''.

§ 7426. Integration of services authorized

(a) Plan

An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

(b) Consolidation of programs

Upon the receipt of an acceptable plan under subsection (a) of this section, the Secretary, in

cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(c) Programs affected

The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) of this section shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

(d) Plan requirements

For a plan to be acceptable pursuant to subsection (b) of this section, the plan shall—

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

(9) be approved by a committee formed in accordance with section 7424(c)(4) of this title, if such a committee exists.

(e) Plan review

Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) Plan approval

Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

(g) Responsibilities of Department of Education

Not later than 180 days after January 8, 2002, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(h) Responsibilities of lead agency

The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(i) Report requirements

A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h) of this section, together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstra-

tion of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

(j) No reduction in amounts

In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

(k) Interagency fund transfers authorized

The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

(*l*) Administration of funds

(1) In general

Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

(2) Separate records not required

Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

(m) Overage

The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

(n) Fiscal accountability

Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31.

(*o*) Report on statutory obstacles to program integration

(1) Preliminary report

Not later than 2 years after January 8, 2002, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

(2) Final report

Not later than 5 years after January 8, 2002, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

(p) Definitions

For the purposes of this section, the term ''Secretary'' means—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(Pub. L. 89–10, title VII, § 7116, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1913.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (g)(1) and (p)(1), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7426, Pub. L. 89–10, title VII, § 7116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3723, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6914 of this title.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 7427. 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

The form described in subsection (a) of this section shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 7491 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

(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child;

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7491 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 1985–86 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 eligibility under this subpart; 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 award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) 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) Review

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 the size of and the geographic location of each local educational agency.

(B) Exception

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 an 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 from the grant that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (a) of this section shall not be counted for the purpose of computing the amount of a grant under section 7423 of this title.

(g) Tribal grant and contract schools

Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

(1) A count of the number of students in the schools certified by the Bureau.

(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(h) Timing of child counts

For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (g)(1) of this section), the local educational agency shall—

(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7424 of this title; and

(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

(Pub. L. 89–10, title VII, § 7117, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1916.)

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.

PRIOR PROVISIONS

A prior section 7427, Pub. L. 89–10, title VII, § 7117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to intensified instruction for limited English proficient students, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7428. 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 7423 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 chapter[1] 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 7423 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, 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 to maintain effort

If, for the preceding fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort for 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 the failure to maintain the fiscal effort at such level; and

(B) not use the reduced amount of the agency and State 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) In general

The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 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) Future determinations

The Secretary shall not use the reduced amount of the 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 VII, § 7118, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1918.)

PRIOR PROVISIONS

A prior section 7428, Pub. L. 89–10, title VII, § 7118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to capacity building, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6915 of this title.

§ 7429. State educational agency review

Before submitting an application to the Secretary under section 7424 of this title, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

(Pub. L. 89–10, title VII, § 7119, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1919.)

PRIOR PROVISIONS

A prior section 7429, Pub. L. 89–10, title VII, § 7119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

[1] So in original. Probably should be "this subpart".

3727, authorized subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7430 to 7434 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7430, Pub. L. 89–10, title VII, § 7120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to priority on funding of programs for limited English proficient students.

Section 7431, Pub. L. 89–10, title VII, § 7121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to coordination with other programs. See section 6844 of this title.

Section 7432, Pub. L. 89–10, title VII, § 7122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to programs for Native Americans and Puerto Rico. See sections 6848 and 6916 of this title.

Section 7433, Pub. L. 89–10, title VII, § 7123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to evaluations. See sections 6841 and 6917 of this title.

Section 7434, Pub. L. 89–10, title VII, § 7124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to construction of provisions. See sections 6845 and 6918 of this title.

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

§ 7441. 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 the necessary actions 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

In this section, the term ''eligible entity'' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

(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 of this section, including—

(A) innovative programs related to the educational needs of educationally disadvantaged 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 high school graduation for Indian children;

(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 to postsecondary education;

(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to 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;

(K) family literacy services;

(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

(M) other services that meet the purpose described in this section.

(2) Professional development

Professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

(d) Grant requirements and applications

(1) Grant requirements

(A) In general

The Secretary may make multiyear grants under subsection (c) of 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) Priority

In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting 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) Progress

The Secretary shall make a grant payment for a grant described in this paragraph 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 (3) and any subsequent modifications to such application.

(2) Dissemination grants

(A) In general

In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) of this section to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) Determination

The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

(i) has been adequately reviewed;

(ii) has demonstrated educational merit; and

(iii) can be replicated.

(3) Application

(A) In general

Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) Contents

Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), 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;

(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

(v) such other assurances and information as the Secretary may reasonably require.

(e) Administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VII, § 7121, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1919.)

PRIOR PROVISIONS

A prior section 7121 of Pub. L. 89–10 was classified to section 7431 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7442. Professional development for teachers and education professionals

(a) Purposes

The purposes of this section are—

(1) to increase the number of qualified Indian individuals in teaching or other education 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 educational agency or local educational agency, in consortium with an institution of higher education;

(3) an Indian tribe or organization, in consortium with an institution of higher education; and

(4) a Bureau-funded school (as defined in section 2026[1] of title 25).

(c) Program authorized

The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those 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 for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors.

(2) Special rules

(A) Type of training

For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) Program

For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) Application

Each eligible entity desiring a grant under this section shall submit an application to the

[1] See References in Text note below.

Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

(f) Special rule

In awarding 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 period 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 compliance with the work requirement under paragraph (1).

(Pub. L. 89–10, title VII, § 7122, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1922.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (b)(4), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. See section 2021 of Title 25.

PRIOR PROVISIONS

A prior section 7122 of Pub. L. 89–10 was classified to section 7432 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 3—NATIONAL ACTIVITIES

§ 7451. National research activities

(a) Authorized activities

The Secretary may use funds made available under section 7492(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 Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs and the Institute of Education Sciences.

(Pub. L. 89–10, title VII, § 7131, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1923; amended Pub. L. 107–279, title IV, § 404(d)(5)(E), (8), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 7451, Pub. L. 89–10, title VII, § 7131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729, authorized research, evaluation of activities, and dissemination of information. See section 6931 of this title.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''by the Institute'' for ''by the Office''.

Subsec. (c)(2). Pub. L. 107–279, § 404(d)(5)(E), substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7452. In-service training for teachers of Indian children

(a) Grants authorized

In addition to the grants authorized by section 7442(c) of this title, the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to—

(1) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

(2) a consortium of—

(A) a tribal college;

(B) an institution of higher education that awards a degree in education; and

(C) one or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

(b) Use of funds

(1) In-service training

A consortium that receives a grant under subsection (a) of this section shall use the grant funds only to provide high quality in-service training to teachers, including teach-

ers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

(2) Components

The training described in paragraph (1) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

(c) Preference for Indian applicants

In applying section 7473 of this title to this section, the Secretary shall give a preference to any consortium that includes one or more of the entities described in section 7473 of this title.

(Pub. L. 89–10, title VII, § 7132, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1924.)

PRIOR PROVISIONS

A prior section 7452, Pub. L. 89–10, title VII, § 7132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729, related to research activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6932 of this title.

§ 7453. 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, or a related field; or

(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

(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 such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to 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 first 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 funding for 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 specialty 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 the assistance under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated portion of such assistance.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance 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 described in 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 VII, § 7133, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1924.)

PRIOR PROVISIONS

A prior section 7453, Pub. L. 89–10, title VII, § 7133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730, related to academic excellence awards, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6933 of this title.

§ 7454. Gifted and talented Indian students

(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, or enter into contracts, for the activities described in subsection (a) of this section, to or with—

(1) two tribally controlled community colleges that—

(A) are eligible for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801 et seq.]; and

(B) are fully accredited; or

(2) the American Indian Higher Education Consortium,

if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1).

(c) Use of funds

(1) In general

Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) 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 schools 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 (b) of this section to carry out a demonstration project 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.

(3) Demonstration projects

Demonstration projects assisted under subsection (b) 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) identifying 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 projects;

(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

(ii) carrying out 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 as are needed to enable such children to benefit from the projects.

(4) Application

Each eligible entity desiring a grant or contract under subsection (b) 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.

(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 referred to individually in this section as a ''Bureau school'') 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 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 reasonably require.

(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 pro-

grams 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, a grant awarded 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) Cooperative efforts

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) Report

The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

(7) Evaluation costs

(A) Division

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 subsection (a) of this section.

(B) Grants and contracts

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),

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 VII, § 7134, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1925; amended Pub. L. 110–315, title IX, § 941(k)(2)(F)(ii), Aug. 14, 2008, 122 Stat. 3466.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsec. (b)(1)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, 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.

PRIOR PROVISIONS

A prior section 7454, Pub. L. 89–10, title VII, § 7134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730, related to State grant program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6934 of this title.

AMENDMENTS

2008—Subsec. (b)(1)(A). Pub. L. 110–315 substituted ''the Tribally Controlled Colleges and Universities Assistance Act of 1978'' for ''the Tribally Controlled College or University Assistance Act of 1978''.

§ 7455. 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 awarded under this section may be awarded for a period of not more than 3 years. 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 for 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[1] of title 25.

(Pub. L. 89–10, title VII, § 7135, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1928.)

REFERENCES IN TEXT

Section 2024 of title 25, referred to in subsec. (d), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. See section 2020 of Title 25.

PRIOR PROVISIONS

A prior section 7455, Pub. L. 89–10, title VII, § 7135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3731, established National Clearinghouse for Bilingual Education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7013 of this title.

§ 7456. Improvement of educational opportunities for adult Indians

(a) In general

The Secretary shall make grants to State educational agencies, local educational agencies, and 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) the provision of 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 or contract 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 or contract; 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 or contract 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 that—

(A) there has been adequate participation, by the individuals to be served and the 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.

[1] See References in Text note below.

(e) Administrative costs

Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

(Pub. L. 89–10, title VII, § 7136, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1929.)

PRIOR PROVISIONS

A prior section 7456, Pub. L. 89–10, title VII, § 7136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, related to instructional materials development, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6935 of this title.

SUBPART 4—FEDERAL ADMINISTRATION

§ 7471. 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 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 VII, § 7141, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1930.)

PRIOR PROVISIONS

A prior section 7471, Pub. L. 89–10, title VII, § 7141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, set forth purpose of former subpart relating to professional development, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6951 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils 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 council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the 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.

§ 7472. Peer review

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3 of this part.

(Pub. L. 89–10, title VII, § 7142, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7472, Pub. L. 89–10, title VII, § 7142, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, related to training for all teachers program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7473. Preference for Indian applicants

In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3 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, contracts, or cooperative agreements.

(Pub. L. 89–10, title VII, § 7143, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7473, Pub. L. 89–10, title VII, § 7143, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education teachers and personnel grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6951 of this title.

§ 7474. Minimum grant criteria

The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 of this part unless the application is for a grant, contract, or cooperative agreement that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

(2) based on relevant research findings.

(Pub. L. 89–10, title VII, § 7144, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7474, Pub. L. 89–10, title VII, § 7144, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education career ladder pro-

gram, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7475 to 7480 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7475, Pub. L. 89–10, title VII, § 7145, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3734, related to graduate fellowships in bilingual education program.

Section 7476, Pub. L. 89–10, title VII, § 7146, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3735, related to application for professional development award. See section 6951 of this title.

Section 7477, Pub. L. 89–10, title VII, § 7147, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, set forth program requirements.

Section 7478, Pub. L. 89–10, title VII, § 7148, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, authorized payment of stipends to persons participating in programs.

Section 7479, Pub. L. 89–10, title VII, § 7149, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, related to program evaluations. See section 6951 of this title.

Section 7480, Pub. L. 89–10, title VII, § 7150, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, related to use of funds for second language competence.

SUBPART 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

§ 7491. Definitions

For the purposes of 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) 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.

(3) 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 in effect the day preceding October 20, 1994.

(Pub. L. 89–10, title VII, § 7151, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

REFERENCES IN TEXT

The Indian Education Act of 1988, as in effect the day preceding October 20, 1994, referred to in par. (3)(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.

PRIOR PROVISIONS

A prior section 7491, Pub. L. 89–10, title VII, § 7161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, set forth special rule relating to transition, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7492. Authorizations of appropriations

(a) Subpart 1

For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated $96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Subparts 2 and 3

For the purpose of carrying out subparts 2 and 3 of this part, there are authorized to be appropriated $24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title VII, § 7152, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932.)

PART B—NATIVE HAWAIIAN EDUCATION

§ 7511. Short title

This part may be cited as the ''Native Hawaiian Education Act''.

(Pub. L. 89–10, title VII, § 7201, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932.)

PRIOR PROVISIONS

Provisions naming former part B (§ 7901 et seq.) of subchapter IX of this chapter as the ''Native Hawaiian Education Act'' were contained in section 7901 of this title, prior to the general amendment of subchapter IX by Pub. L. 107–110.

A prior section 7511, Pub. L. 89–10, title VII, § 7201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737, set forth short title of the Foreign Language Assistance Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7512. Findings

Congress finds the following:

(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 a nation 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 nonindigenous people in Hawaii 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 monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawaii, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawaii, and entered into treaties and conventions with the Kingdom of Hawaii 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 Hawaii, the Kingdom of Hawaii, 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 Hawaii, in 1993 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 ''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 Hawaii, including the government and crown lands of the former Kingdom of Hawaii, to the United States, but mandated that revenue generated from the 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, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), 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, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: ''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, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), 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 Hawaii 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 Hawaii but reaffirmed the trust relationship 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 amendments to such Act 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 Hawaii into the Union'', the United States also ceded to the State of Hawaii 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 that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawaii 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 has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996[, 1996a]);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(14) In 1981, Congress instructed the Office of Education to submit to 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 regard to 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 that were related to their unique cultural situation, such as different learning styles and low self-image.

(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings 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 existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. 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) high rates of births by Native Hawaiian women who 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 intellectual disabilities, 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, as demonstrated by the fact that—

(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 have the highest rates of drug and alcohol use in the State of Hawaii; 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 Hawaii Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawaii.

(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

(19) Following the overthrow of the Kingdom of Hawaii in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawaii, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ''I ka ʻōlelo nō ke ola; I ka ʻōlelo nō 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 Hawaii, in the constitution and statutes of the State of Hawaii—

(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;

(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii, which may

be used as the language of instruction for all subjects and grades in the public school system; and

(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

(Pub. L. 89–10, title VII, § 7202, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932; amended Pub. L. 111–256, § 2(c), Oct. 5, 2010, 124 Stat. 2643.)

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.

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 joint resolution to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in pars. (7), (8), and (11), is act July 9, 1921, ch. 42, 42 Stat. 108, 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, 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)(A), 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)(B), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, 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)(C), 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)(D), 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)(E), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, 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(a) of Title 16 and Tables.

The Native American Languages Act, referred to in par. (13)(F), 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 American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, referred to in par. (13)(G), is title XV of Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1600, which is classified generally to chapter 56 (§ 4401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

The Workforce Investment Act of 1998, referred to in par. (13)(H), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936. 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 Older Americans Act of 1965, referred to in par. (13)(I), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§ 3001 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 3001 of Title 42 and Tables.

The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, referred to in pars. (15) and (16), is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130. 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.

PRIOR PROVISIONS

A prior section 7512, Pub. L. 89–10, title VII, § 7202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737, set forth findings of the Foreign Language Assistance Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2010—Par. (16)(E). Pub. L. 111–256 substituted ''mild intellectual disabilities,'' for ''mild mental retardation,''.

DEFINITIONS

For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111–256, see section 2(k) of Pub. L. 111–256, set out as a note under section 1400 of this title.

§ 7513. Purposes

The purposes of this part are to—

(1) authorize and develop innovative educational programs to assist Native Hawaiians;

(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, and to provide periodic assessment and data collection;

(3) supplement and expand programs and authorities in the area of education to further the purposes of this subchapter; and

(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

(Pub. L. 89–10, title VII, § 7203, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1937.)

PRIOR PROVISIONS

A prior section 7513, Pub. L. 89–10, title VII, § 7203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737, authorized foreign language assistance program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259a of this title.

§ 7514. 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 21 members, unless otherwise determined by a majority of the council.

(c) Conditions and terms

(1) Conditions

At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawaii Office of Hawaiian Affairs shall serve as a member of the Education Council.

(2) Appointments

The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

(3) Terms

Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

(4) Council determinations

Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

(d) Native Hawaiian Education Council grant

The Secretary shall make a direct grant to the Education Council to carry out the following activities:

(1) Coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part.

(2) Assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education.

(3) 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, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity.

(4) Make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

(e) Additional duties of the Education Council

(1) In general

The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i) of this section, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

(2) Annual report

The Education Council shall prepare and submit 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 determines to be appropriate, in a manner that supports the distinct needs of each island council.

(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 Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as an ''island council'') for the following islands:

(A) Hawaii.
(B) Maui.
(C) Molokai.
(D) Lanai.
(E) Oahu.
(F) Kauai.
(G) Niihau.

(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 individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least three-fourths of the members of each island council shall be Native Hawaiians.

(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 appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often 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 service on the Education Council and each island council, respectively.

(i) Report

Not later than 4 years after January 8, 2002, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

(Pub. L. 89–10, title VII, § 7204, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1937.)

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.

PRIOR PROVISIONS

A prior section 7514, Pub. L. 89–10, title VII, § 7204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259b of this title.

§ 7515. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make direct grants to, or enter into contracts with—

(A) Native Hawaiian educational organizations;

(B) Native Hawaiian community-based organizations;

(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

(2) Priorities

In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

(A) beginning reading and literacy among students in kindergarten through third grade;

(B) the needs of at-risk children and youth;

(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

(D) the use of the Hawaiian language in instruction.

(3) Authorized activities

Activities provided through programs carried out under this part may include—

(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

(B) the operation of family-based education centers that provide such services as—

(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

(ii) preschool programs for Native Hawaiians; and

(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through third grade and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in fifth and sixth grade;

(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

(i) the identification of such students and their needs;

(ii) the provision of support services to the families of those students; and

(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

(G) professional development activities for educators, including—

(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services, including—

(i) preschool programs;
(ii) after-school programs;
(iii) vocational and adult education programs; and
(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;

(I) activities, including program co-location, to enable Native Hawaiians to enter and complete programs of postsecondary education, including—
(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;
(ii) family literacy services;
(iii) counseling and support services for students receiving scholarship assistance;
(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and
(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;
(K) other research and evaluation activities related to programs carried out under this part; and
(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

(4) Special rule and conditions

(A) Institutions outside Hawaii

The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawaii from receiving a scholarship pursuant to paragraph (3)(I).

(B) Scholarship conditions

The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

(b) Administrative costs

Not more than 5 percent of funds provided to a recipient of a grant or contract under subsection (a) of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section and section 7514 of this title such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Reservation

Of the funds appropriated under this subsection, the Secretary shall reserve $500,000 for fiscal year 2002 and each of the 5 succeeding fiscal years to make a direct grant to the Education Council to carry out section 7514 of this title.

(3) Availability

Funds appropriated under this subsection shall remain available until expended.

(Pub. L. 89–10, title VII, § 7205, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1939.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(D)(iii), 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 7515, Pub. L. 89–10, title VII, § 7205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738, related to elementary school foreign language incentive program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259c of this title.

§ 7516. Administrative provisions

(a) Application required

No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

(b) Special rule

Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

(Pub. L. 89–10, title VII, § 7206, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1941.)

PRIOR PROVISIONS

A prior section 7516, Pub. L. 89–10, title VII, § 7206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739, authorized appropriations for foreign language assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7517. Definitions

In this part:

(1) Native Hawaiian

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 Hawaii, as evidenced by—

(i) genealogical records;

(ii) Kupuna (elders) or Kamaaina (long-term community residents) verification; or

(iii) certified birth records.

(2) Native Hawaiian community-based organization

The term ''Native Hawaiian community-based organization'' means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

(3) Native Hawaiian educational organization

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) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

(D) has demonstrated expertise in the education of Native Hawaiian youth; and

(E) has demonstrated expertise in research and program development.

(4) Native Hawaiian language

The term ''Native Hawaiian language'' means the single Native American language indigenous to the original inhabitants of the State of Hawaii.

(5) Native Hawaiian organization

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 organization; and

(C) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

(6) Office of Hawaiian Affairs

The term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 89–10, title VII, § 7207, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1941.)

PART C—ALASKA NATIVE EDUCATION

§ 7541. Short title

This part may be cited as the ''Alaska Native Educational Equity, Support, and Assistance Act''.

(Pub. L. 89–10, title VII, § 7301, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1942.)

PRIOR PROVISIONS

Provisions naming former part C (§ 7931 et seq.) of subchapter IX of this chapter as the ''Alaska Native Educational Equity, Support and Assistance Act'' were contained in section 7931 of this title, prior to the general amendment of subchapter IX by Pub. L. 107–110.

A prior section 7541, Pub. L. 89–10, title VII, § 7301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739, set forth findings and purpose of emergency immigrant education program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6961 of this title.

§ 7542. Findings

Congress finds and declares the following:

(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. Native performance on standardized tests is low, 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 in this part, 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 Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

(7) 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 VII, § 7302, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1942.)

PRIOR PROVISIONS

A prior section 7542, Pub. L. 89–10, title VII, § 7302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739, related to State administrative costs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6962 of this title.

§ 7543. Purposes

The purposes of this part are as follows:

(1) To recognize the unique educational needs of Alaska Natives.

(2) To authorize the development of supplemental educational programs to benefit Alaska Natives.

(3) To supplement existing programs and authorities in the area of education to further the purposes of this part.

(4) To 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 VII, § 7303, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1943.)

PRIOR PROVISIONS

A prior section 7543, Pub. L. 89–10, title VII, § 7303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739, related to withholding, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6963 of this title.

§ 7544. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this part.

(2) Permissible activities

Activities provided through programs carried out under this part may include the following:

(A) The development and implementation of plans, methods, and strategies to improve the education of Alaska Natives.

(B) The development of curricula and educational programs that address the educational needs of Alaska Native students, including the following:

(i) Curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives.

(ii) Instructional programs that make use of Native Alaskan languages.

(iii) Networks that introduce successful programs, materials, and techniques to urban and rural schools.

(C) Professional development activities for educators, including the following:

(i) Programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students.

(ii) In-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students.

(iii) Recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska.

(D) The development and operation of home instruction programs for Alaska Native preschool children, to ensure the active involvement of parents in their children's education from the earliest ages.

(E) Family literacy services.

(F) The development and operation of student enrichment programs in science and mathematics that—

(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math;

(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs; and

(iii) may include activities that recognize and support the unique cultural and educational needs of Alaska Native children, and incorporate appropriately qualified Alaska Native elders and seniors.

(G) Research and data collection activities to determine the educational status and needs of Alaska Native children and adults.

(H) Other research and evaluation activities related to programs carried out under this part.

(I) Remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests.

(J) Education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers.

(K) Parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers.

(L) Cultural education programs operated by the Alaska Native Heritage Center and designed to share the Alaska Native culture with students.

(M) A cultural exchange program operated by the Alaska Humanities Forum and designed to share Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program.

(N) Activities carried out through Even Start programs carried out under subpart 3 of part B of subchapter I of this chapter and Head Start programs carried out under the Head Start Act [42 U.S.C. 9831 et seq.], including the training of teachers for programs described in this subparagraph.

(O) Other early learning and preschool programs.

(P) Dropout prevention programs operated by the Cook Inlet Tribal Council's Partners for Success program.

(Q) An Alaska Initiative for Community Engagement program.

(R) Career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities.

(S) Provision of operational support and purchasing of equipment, to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 through 12, or at higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities.

(T) Other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

(3) Home instruction programs

Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include the following:

(A) Programs for parents and their infants, from the prenatal period of the infant through age 3.

(B) Preschool programs.

(C) Training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

(b) Limitation on administrative costs

Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

(c) Priorities

In awarding grants or contracts to carry out activities described in subsection (a)(2) of this section, except for activities listed in subsection (d)(2) of this section, the Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least one Alaska Native regional nonprofit organization.

(d) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Availability of funds

Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available—

(A) not less than $1,000,000 to support activities described in subsection (a)(2)(K) of this section;

(B) not less than $1,000,000 to support activities described in subsection (a)(2)(L) of this section;

(C) not less than $1,000,000 to support activities described in subsection (a)(2)(M) of this section;

(D) not less than $2,000,000 to support activities described in subsection (a)(2)(P) of this section; and

(E) not less than $2,000,000 to support activities described in subsection (a)(2)(Q) of this section.

(Pub. L. 89–10, title VII, § 7304, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1943; amended Pub. L. 108–11, title II, § 2504, Apr. 16, 2003, 117 Stat. 599.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(2)(N), is subchapter B (§ 635 et seq.) 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.

PRIOR PROVISIONS

A prior section 7544, Pub. L. 89–10, title VII, § 7304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3740, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6964 of this title.

AMENDMENTS

2003—Subsec. (a)(2)(P). Pub. L. 108–11 substituted ''operated by'' for ''such as''.

§ 7545. Administrative provisions

(a) Application required

No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application 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

A State educational agency or local educational agency may apply for an award under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

(c) Consultation required

Each applicant for an award under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

(d) Local educational agency coordination

Each applicant for an award under this part shall inform each local educational agency serving students who would participate in the program to be carried out under the grant or contract about the application.

(Pub. L. 89–10, title VII, § 7305, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1946.)

PRIOR PROVISIONS

A prior section 7545, Pub. L. 89–10, title VII, § 7305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3741, related to State applications, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6965 of this title.

§ 7546. Definitions

In this part:

(1) Alaska Native

The term ''Alaska Native'' has the same meaning as the term ''Native'' has in section 1602(b) of title 43.

(2) Alaska Native organization

The term ''Alaska Native organization'' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization 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 VII, § 7306, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1946.)

PRIOR PROVISIONS

A prior section 7546, Pub. L. 89–10, title VII, § 7306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743, related to administrative provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6966 of this title.

Prior sections 7547 to 7602 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7547, Pub. L. 89–10, title VII, § 7307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743, related to uses of funds. See section 6967 of this title.

Section 7548, Pub. L. 89–10, title VII, § 7308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to reports. See section 6968 of this title.

Section 7549, Pub. L. 89–10, title VII, § 7309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, authorized appropriations.

Section 7571, Pub. L. 89–10, title VII, § 7401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to release time. See section 6981 of this title.

Section 7572, Pub. L. 89–10, title VII, § 7402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to acquisition or development of education technology.

Section 7573, Pub. L. 89–10, title VII, § 7403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to notification of awards. See section 6982 of this title.

Section 7574, Pub. L. 89–10, title VII, § 7404, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to continued eligibility for grants.

Section 7575, Pub. L. 89–10, title VII, § 7405, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to coordination and reporting requirements. See section 6983 of this title.

Section 7601, 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, defined terms. See section 7011 of this title.

Section 7602, Pub. L. 89–10, title VII, § 7502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3748, related to regulations and parental notification. See sections 7012 and 7014 of this title.

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.

§ 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 571 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; Pub. L. 108–189, § 2(f), Dec. 19, 2003, 117 Stat. 2866.)

PRIOR PROVISIONS

A prior section 8001 of Pub. L. 89–10 was classified to section 3351 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Another prior section 8001 of Pub. L. 89–10 was renumbered section 9001 and was classified to section 3381 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2003—Pub. L. 108–189 substituted ''section 571'' for ''section 574'' in introductory provisions.

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

Pub. L. 103–382, § 3(a)(1), Oct. 20, 1994, 108 Stat. 3518, 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 [this subchapter], 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 [this subchapter], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994].''

§ 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—

(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) or (h) 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 estimated taxable value of such acquired Federal property.

(3) Determination of taxable value for eligible Federal property

(A) In general

In determining the estimated taxable value of such acquired Federal property for fiscal year 2010 and each succeeding fiscal year, the Secretary shall—

(i) first determine the total taxable value for the purpose of levying property tax for school purposes for current expenditures of real property located within the boundaries of such local educational agency;

(ii) then determine the per acre value of the eligible Federal property by dividing the total taxable value as determined in clause (i) by the difference between the total acres located within the boundaries of the local educational agency and the number of Federal acres eligible under this section; and

(iii) then determine the total taxable value of the eligible Federal property by multiplying the per acre value as calculated under clause (ii) by the number of Federal acres eligible under this section.

(B) Special rule

In the case of Federal property eligible under this section that is within the boundaries of 2 or more local educational agencies, such a local educational agency may ask the Secretary to calculate the per acre value of each such local educational agency as provided under subparagraph (A) and apply the average of these per acre values to the acres of the Federal property in such agency.

(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-2010 recipients

(A) In general

The Secretary shall first make a foundation payment to each local educational agency that is determined by the Secretary to be eligible to receive a payment under this section for the fiscal year involved and that filed a timely application, and met, or has been determined by statute to meet, the eligibility requirements of subsection (a) for fiscal year 2009.

(B) Amount

(i) In general

The amount of a payment under subparagraph (A) for a local educational agency shall be equal to the greater of 90 percent of the payment the local educational agency received from dollars appropriated for fiscal year 2009 or 90 percent of the average payment that the local educational agency received from dollars appropriated for fiscal years 2006, 2007, 2008, and 2009, and shall be calculated without regard to the maximum payment provisions in subsection (b)(1)(C).

(ii) Exception

In calculating such average payment for a local educational agency that did not receive a payment under subsection (b) for 1 or more of the fiscal years between fiscal year 2006 and 2009, inclusive, the lowest such payment made to the agency for fiscal year 2006, 2007, 2008, or 2009, shall be treated as the payment that the agency received under subsection (b) for each fiscal year for which the agency did not receive such a payment.

(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) Foundation payments for new applicants

(A) First year

From any amounts remaining after making payments under paragraph (1) and subsection (i)(1) for the fiscal year involved, the Secretary shall make a payment, in an amount determined in accordance with subparagraph (C), to each local educational agency that the Secretary determines eligible for a payment under this section for a fiscal year after fiscal year 2009 and that did not receive a payment under paragraph (1) for the fiscal year for which such agency was determined eligible for such payment.

(B) Second and succeeding years

For any succeeding fiscal year after the first fiscal year that a local educational agency receives a foundation payment under subparagraph (A), the amount of the local educational agency's foundation payment under this paragraph for such succeeding fiscal year shall be equal to the local educational agency's foundation payment under this paragraph for the first fiscal year.

(C) Amounts

The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the local educational agency's maximum payment under subsection (b).

(ii) Calculate the percentage that the amount appropriated under section 7714(a) of this title for the most recent fiscal year for which the Secretary has completed making payments under this section is of the total maximum payments for such fiscal year for all local educational agencies eligible for a payment under subsection (b) and multiply the agency's maximum payment by such percentage.

(iii) Multiply the amount determined under clause (ii) by 90 percent.

(D) Insufficient funds

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.

(3) Remaining funds

From any funds remaining after making payments under paragraphs (1) and (2) for the

fiscal year involved, the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) or (2) or subsection (i)(1), for the fiscal year involved in an amount that bears the same relation to the remainder as a percentage share determined for the local educational agency (by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies) 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 maximum amount under subsection (b), data from the most current fiscal year shall be used.

(4) Data

For each local educational agency that received a payment under this section for fiscal year 2010 through the fiscal year in which the Impact Aid Improvement Act of 2012 is enacted, the Secretary shall not make a payment under paragraph (3) to a local educational agency that fails to submit, within 60 days of the date the Secretary notifies the agency that the information is needed, the data necessary to calculate the maximum amount of a payment under subsection (b) for that local educational agency.

(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) Repealed. Pub. L. 107–110, title VIII, § 801(d), Jan. 8, 2002, 115 Stat. 1948

(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)[1] 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 7 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 7 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 Govern-

[1] See References in Text note below.

ment 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 7 years after the date of acquisition.

(n) Loss of eligibility

(1) In general

Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 7713(5)(C)(iii) of this title, in an amount equal to 90 percent of the amount received by the agency under this section for the preceding year.

(2) Local educational agency described

A local educational agency described in this paragraph is an agency that—

(A) was eligible for, and received, a payment under this section for fiscal year 2002; and

(B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) of this section as a result of the transfer of the Federal property involved to a non-Federal entity.

(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; Pub. L. 107–110, title VIII, § 801(a)–(e), Jan. 8, 2002, 115 Stat. 1947, 1948; Pub. L. 108–447, div. F, title III, § 305, Dec. 8, 2004, 118 Stat. 3151; Pub. L. 112–239, div. A, title V, § 563(b)(1), (c)(4), Jan. 2, 2013, 126 Stat. 1744, 1748.)

AMENDMENT OF SECTION

For termination of amendment by section 563(c) of Pub. L. 112–239, see Effective and Termination Dates of 2013 Amendment note below.

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), 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.

The Impact Aid Improvement Act of 2012, referred to in subsec. (h)(4), is Pub. L. 112–239, div. A, title V, § 563, Jan. 2, 2013, 126 Stat. 1744, which amended this section and sections 7703 and 7710 of this title and enacted provisions set out as notes under this section and section 6301 of this title. The Act was enacted in fiscal year 2013. For complete classification of this Act to the Code, see Short Title of 2013 Amendment note set out under section 6301 of this title and Tables.

Subsection (h)(4)(B) of this section, referred to in subsec. (*l*), was repealed by Pub. L. 112–239, div. A, title V, § 563(b)(1)(C)(ii), Jan. 2, 2013, 126 Stat. 1745.

PRIOR PROVISIONS

A prior section 8002 of Pub. L. 89–10 was renumbered section 9002 and was classified to section 3382 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2013—Subsec. (a). Pub. L. 112–239, § 563(b)(1)(A), (c)(4), temporarily struck out ''for a fiscal year ending prior to October 1, 2003'' at end of introductory provisions and inserted ''or (h)'' after ''subsection (b)'' in concluding provisions. See Effective and Termination Dates of 2013 Amendment note below.

Subsec. (b)(2). Pub. L. 112–239, § 563(b)(1)(B)(i), (c)(4), temporarily substituted ''estimated taxable'' for ''aggregate assessed''. See Effective and Termination Dates of 2013 Amendment note below.

Subsec. (b)(3). Pub. L. 112–239, § 563(b)(1)(B)(ii), (c)(4), temporarily added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: ''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.'' See Effective and Termination Dates of 2013 Amendment note below.

Subsec. (h)(1). Pub. L. 112–239, § 563(b)(1)(C)(i), (c)(4), temporarily substituted ''for pre-2010 recipients'' for ''for pre-1995 recipients'' in heading, added pars. (A) and (B), and struck out former pars. (A) and (B) which related to foundation payments for pre-1995 recipients. See Effective and Termination Dates of 2013 Amendment note below.

Subsec. (h)(2) to (4). Pub. L. 112–239, § 563(b)(1)(C)(ii), (c)(4), temporarily added pars. (2) to (4) and struck out former pars. (2) to (4) which related to payments for 1995 recipients, payments in accordance with subsection (i), and funds remaining after making payments, respectively. See Effective and Termination Dates of 2013 Amendment note below.

2004—Subsec. (m). Pub. L. 108–447 substituted ''7 years'' for ''5 years'' in pars. (1), (2)(B), and (3).

2002—Subsec. (h)(1)(A). Pub. L. 107–110, § 801(a)(1), substituted ''and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950'' for ''and was eligible to receive a payment under section 2 of the Act of September 30, 1950''.

Subsec. (h)(1)(B). Pub. L. 107–110, § 801(a)(2), substituted ''(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994'' for ''(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994''.

Subsec. (h)(2)(A). Pub. L. 107–110, § 801(b)(1), inserted before period at end '', or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years''.

Subsec. (h)(2)(B)(ii). Pub. L. 107–110, § 801(b)(2), substituted ''for each local educational agency described in subparagraph (A)'' for ''for each local educational agency that received a payment under this section for fiscal year 1995''.

Subsec. (h)(4)(B). Pub. L. 107–110, § 801(c), substituted ''(by dividing the maximum amount that the agency is eligible to receive under subsection (b) of this section by the total of the maximum amounts for all such agencies)'' for ''(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))'' and '', except that, for the purpose of calculating a local educational agency's

maximum amount under subsection (b) of this section'' for '', except that for the purpose of calculating a local educational agency's assessed value of the Federal property''.

Subsec. (j). Pub. L. 107–110, § 801(d), struck out subsec. (j) which authorized additional assistance for certain local educational agencies impacted by Federal property acquisition.

Subsec. (n). Pub. L. 107–110, § 801(e), added subsec. (n).

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).

EFFECTIVE AND TERMINATION DATES OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, § 563(c), Jan. 2, 2013, 126 Stat. 1748, provided that:

''(1) IN GENERAL.—The amendments made by subsection (b) [amending this section and sections 7703 and 7710 of this title] shall be effective for a 2-year period beginning on the date of enactment of this Act [Jan. 2, 2013].

''(2) EFFECTIVE DATE.—Notwithstanding section 8005(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)), subsection (b)(1) [amending this section], and the amendments made by subsection (b)(1), shall take effect with respect to applications submitted under section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) for fiscal year 2010.

''(3) IMPLEMENTATION.—The Secretary of Education shall carry out the amendments made by this section without regard to the rulemaking procedures under section 553 of title 5, United States Code.

''(4) REPEAL.—The amendments made by subsection (b) shall be repealed on the day after the 2-year period described in paragraph (1) and title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) shall be applied as if such subsection and the amendments made by such subsection had never been enacted.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 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 pro-

vided 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 5,000; 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) Military installation housing

Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider those children as if they were 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 those children would have resided in housing on Federal property if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(B) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(B) for the year prior to the initiation of the housing project on Federal property undergoing renovation or rebuilding; or

(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

(B) Indian lands

Beginning in fiscal year 2014, in determining 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 those 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 those children would have resided in housing on Indian lands if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(C) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(C) for the year prior to the initiation of the housing project on Indian lands undergoing renovation or rebuilding; or

(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

(C) Eligible housing

Renovation or rebuilding shall be defined as projects considered as capitalization, modernization, or restoration, as defined by the Secretary of Defense or the Secretary of

the Interior (as the case may be) and are projects that last more than 30 days, but do not include ''sustainment projects'' such as painting, carpeting, or minor repairs.

(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.

(G) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year.

(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 support 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 if the agency is a qualified local educational agency as described in clause (iv)), 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 education agency or three comparable local educational agencies in the State in which the local educational 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 if the agency is a qualified local educational agency as described in clause (iv)), or meets the requirements of clause (i), for that 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) 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.

(iv) Qualified local educational agency

A qualified local educational agency described in this clause is an agency that meets the following requirements:

(I) The boundaries of the agency are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

(II) The agency has no taxing authority.

(III) The agency received a payment under paragraph (1) for fiscal year 2001.

(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 does not qualify under (B)(i)(II)(aa)[1] of this subsection and has an enrollment of more than 100 but not more than 1,000 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 edu-

[1] So in original. Probably should be "paragraph (2)(B)(i)(II)(aa)".

cational 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.

(H) Eligibility for heavily impacted local educational agencies affected by privatization of military housing

(i) Eligibility

For any fiscal year, a heavily impacted local educational agency that received a basic support payment under this paragraph for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B), (C), (D), or (E), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

(ii) Amount of payment

The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E), as the case may be, shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year and under the same provisions of subparagraph (D) or (E) under which the agency was paid during the prior fiscal year.

(iii) Conversion of military housing units to private housing described

For purposes of clause (i), ''conversion of military housing units to private housing'' means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10 or pursuant to any other related provision of law.

(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 or less than the average per-pupil expenditure of all the States, 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 subparagraph (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; Pub. L. 107–20, title II, § 2703(a), July 24, 2001, 115 Stat. 182; Pub. L. 107–110, title VIII, § 802(a)(1), Jan. 8, 2002, 115 Stat. 1949; Pub. L. 107–206, title I, §§ 801, 802, Aug. 2, 2002, 116 Stat. 874; Pub. L. 107–279, title IV, § 406(a), Nov. 5, 2002, 116 Stat. 1986; Pub. L. 107–314, div. A, title III, § 344, Dec. 2, 2002, 116 Stat. 2515; Pub. L. 108–136, div. A, title V, § 537(a), Nov. 24, 2003, 117 Stat. 1475; Pub. L. 111–84, div. A, title V, § 536, Oct. 28, 2009, 123 Stat. 2293; Pub. L. 112–239, div. A, title V, § 563(b)(2), (c)(4), Jan. 2, 2013, 126 Stat. 1746, 1748.)

AMENDMENT OF SECTION

For termination of amendment by section 563(c) of Pub. L. 112–239, see Effective and Termination Dates of 2013 Amendment note below.

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).

A prior section 8003 of Pub. L. 89–10 was renumbered section 9003 and was classified to section 3383 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2013—Subsec. (a)(4). Pub. L. 112–239, § 563(b)(2), (c)(4), temporarily added par. (4) and struck out former par. (4) which related to military installation and Indian housing undergoing renovation or rebuilding. See Effective and Termination Dates of 2013 Amendment note below.

2009—Subsec. (a)(2)(C)(i). Pub. L. 111–84 substituted ''5,000'' for ''6,500''.

2003—Subsec. (b)(2)(H)(i), (ii). Pub. L. 108–136 added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) ELIGIBILITY.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

''(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year.''

2002—Subsec. (b)(1)(G). Pub. L. 107–206, § 802, added subpar. (G).

Subsec. (b)(2)(C)(i). Pub. L. 107–110, § 802(a)(1)(A), inserted ''(or if the agency is a qualified local educational agency as described in clause (iv))'' after ''Federal military installation'' in introductory provisions.

Subsec. (b)(2)(C)(i)(II)(bb). Pub. L. 107–279 amended item (bb) generally. Prior to amendment, item (bb) read as follows: ''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''.

Subsec. (b)(2)(C)(ii). Pub. L. 107–110, § 802(a)(1)(A), inserted ''(or if the agency is a qualified local educational agency as described in clause (iv))'' after ''Federal military installation''.

Subsec. (b)(2)(C)(iv). Pub. L. 107–110, § 802(a)(1)(B), added cl. (iv).

Subsec. (b)(2)(D)(ii)(III). Pub. L. 107–206, § 801, amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: ''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.''

Subsec. (b)(2)(H). Pub. L. 107–314 added subpar. (H).

Subsec. (b)(3)(B)(iv). Pub. L. 107–20 inserted ''or less than the average per-pupil expenditure of all the States'' after ''of the State in which the agency is located''.

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 AND TERMINATION DATES OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective for a 2-year period beginning on Jan. 2, 2013, and repealed on the day after the 2-year period and this subchapter to be applied as if the amendment had never been enacted, see section 563(c) of Pub. L. 112–239 set out as a note under section 7702 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, § 537(b), Nov. 24, 2003, 117 Stat. 1475, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect beginning with basic support payments under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–279, title IV, § 406(b), Nov. 5, 2002, 116 Stat. 1987, provided that: ''The amendment made by section 406(a) [amending this section] shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years.''

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

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 AMENDMENT

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''.

Pub. L. 105–18, title VI, § 60005(b), June 12, 1997, 111 Stat.215, 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 AMENDMENT

Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 307(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995.''

Pub. L. 104–195, § 3(b), Sept. 16, 1996, 110 Stat. 2381, 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.''

Pub. L. 104–195, § 4(b), Sept. 16, 1996, 110 Stat. 2381, 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.''

Pub. L. 104–195, § 5(c), Sept. 16, 1996, 110 Stat. 2382, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to fiscal years after fiscal year 1996.''

TRANSITION PROVISIONS

Pub. L. 107–110, title VIII, § 802(a)(2), Jan. 8, 2002, 115 Stat. 1949, provided that: ''The Secretary shall consider an application for a payment under section 8003(b)(2) [20 U.S.C. 7703(b)(2)] for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act [Jan. 8, 2002].''

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, which required the Secretary of Defense, in consultation with the Secretary of Education, to provide financial assistance to certain local educational agencies in States, was repealed by Pub. L. 109–163, div. A, title V, § 572(g), Jan. 6, 2006, 119 Stat. 3273. See section 7703b of this title.

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.

§ 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 de-

fray 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.

§ 7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees

(a) Assistance to schools with significant numbers of military dependent students

(1) Assistance authorized

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational 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 local educational 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.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations

(1) Assistance authorized

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) of this section for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of

the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

(3) Calculation of amount of assistance

(A) Pro rata distribution

The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

(B) Per-student rate

For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(C) Maximum amount of assistance

A local educational agency may not receive more than $1,000,000 in assistance under this subsection for any fiscal year.

(4) Duration

Assistance may not be provided under this subsection after September 30, 2014.

(c) Notification

Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) of this section or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) Disbursement of funds

The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) of this section for that fiscal year.

(e) Definitions

In this section:

(1) The term ''base closure process'' means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after January 6, 2006, under section 2687 of title 10 or any other similar law enacted after January 6, 2006.

(2) The term ''local educational agency'' has the meaning given that term in section 7713(9) of this title.

(3) The term ''military dependent students'' refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term ''State'' means each of the 50 States and the District of Columbia.

(Pub. L. 109–163, div. A, title V, § 572, Jan. 6, 2006, 119 Stat. 3271; Pub. L. 111–84, div. A, title V, § 533, Oct. 28, 2009, 123 Stat. 2292; Pub. L. 112–239, div. A, title V, § 561(b)(1), (c), Jan. 2, 2013, 126 Stat. 1743, 1744.)

REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (e)(1), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 572 of Pub. L. 109–163. Subsec. (g) of section 572 of Pub. L. 109–163 repealed section 386 of Pub. L. 102–484, formerly set out as a note under section 7703 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2013—Subsec. (b)(4). Pub. L. 112–239, § 561(b)(1), substituted ''September 30, 2014'' for ''September 30, 2012''.

Subsecs. (e), (f). Pub. L. 112–239, § 561(c), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: ''Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

''(1) $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of this section; and

''(2) $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of this section.''

2009—Subsec. (b)(4). Pub. L. 111–84 substituted ''September 30, 2012'' for ''September 30, 2010''.

PLAN AND AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES EXPERIENCING GROWTH IN ENROLLMENT DUE TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS

Pub. L. 109–364, div. A, title V, § 574, Oct. 17, 2006, 120 Stat. 2226, as amended by Pub. L. 110–181, div. A, title V, § 573, Jan. 28, 2008, 122 Stat. 120; Pub. L. 110–417, [div. A], title V, § 553, Oct. 14, 2008, 122 Stat. 4469; Pub. L. 112–81, div. A, title V, § 573, Dec. 31, 2011, 125 Stat. 1427, provided that:

''(a) PLAN REQUIRED.—Not later than January 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth a plan to provide assistance to local educational agencies that experience growth in the enrollment of military dependent students as a result of any of the following events:

''(1) Force structure changes.

''(2) The relocation of a military unit.

''(3) The closure or realignment of military installations pursuant to defense base closure and realignment under the base closure laws.

''(b) ELEMENTS.—The report required by subsection (a), and each updated report required by subsection (c), shall include the following:

''(1) An identification, current as of the date of the report, of the total number of military dependent students who are anticipated to be arriving at or departing from military installations as a result of any event described in subsection (a), including—

''(A) an identification of the military installations affected by such arrivals and departures;

''(B) an estimate of the number of such students arriving at or departing from each such installation; and

''(C) the anticipated schedule of such arrivals and departures.

''(2) Such recommendations as the Office of Economic Adjustment of the Department of Defense considers appropriate for means of assisting affected local educational agencies in accommodating increases in enrollment of military dependent students as a result of any such event.

''(3) A plan for outreach to be conducted to affected local educational agencies, commanders of military installations, and members of the Armed Forces and civilian personnel of the Department of Defense regarding information on the assistance to be provided under the plan under subsection (a).

''(c) UPDATED REPORTS.—Not later than March 1, 2008, and annually thereafter to coincide with the submission of the budget of the President for a fiscal year under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an update of the report required by subsection (a).

''(d) TRANSITION OF MILITARY DEPENDENTS AMONG LOCAL EDUCATIONAL AGENCIES.—(1) The Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transitions of military dependent students from Department of Defense dependent schools to other schools and among schools of local educational agencies.

''(2) The Secretary of Defense may use funds of the Department of Defense Education Activity for the following purposes:

''(A) To share expertise and experience of the Activity with local educational agencies as military dependent students make the transitions described in paragraph (1), including transitions resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.

''(B) To provide grant assistance programs for local educational agencies with military dependent students undergoing the transitions described in paragraph (1), including programs on the following:

''(i) Access to virtual and distance learning capabilities and related applications.

''(ii) Training for teachers.

''(iii) Academic strategies to increase academic achievement.

''(iv) Curriculum development.

''(v) Support for practices that minimize the impact of transition and deployment.

''(vi) Other appropriate services to improve the academic achievement of such students.

''(3) The authority provided by this subsection expires September 30, 2016.

''(e) DEFINITIONS.—In this section:

''(1) The term 'base closure law' has the meaning given that term in section 101 of title 10, United States Code.

''(2) 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)).

''(3) The term 'military dependent students' refers to—

''(A) elementary and secondary school students who are dependents of members of the Armed Forces;

''(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense; and

''(C) elementary and secondary school students who are dependents of personnel who are not members of the Armed Forces or civilian employees of the Department of Defense but who are employed on Federal property.''

§ 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.

PRIOR PROVISIONS

A prior section 8004 of Pub. L. 89–10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Pub. L. 95–561, title XI, § 1101(d), Nov. 1, 1978, 92 Stat. 2315, 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.

§ 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 agency 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.

PRIOR PROVISIONS

A prior section 8005 of Pub. L. 89–10 was renumbered section 9005 and was classified to section 3386 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

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 para-

graph (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.''

§ 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 emergency and 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—

(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

(B) shall award modernization grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

(2) Priority

In approving applications from local educational agencies for emergency grants and modernization grants under this subsection, the Secretary shall give priority to applications in accordance with the following:

(A) The Secretary shall first give priority to applications for emergency grants from local educational agencies that meet the requirements of paragraph (3)(A) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(B) The Secretary shall next give priority to applications for emergency grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(C) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet

the requirements of paragraph (3)(B) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(D) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(3) Eligibility requirements

(A) Emergency grants

A local educational agency is eligible to receive an emergency grant under paragraph (2)(A) if—

(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent)—

(I) has no practical capacity to issue bonds;

(II) has minimal capacity to issue bonds and is at not less than 75 percent of the agency's limit of bonded indebtedness; or

(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 7703(b)(2) of this title for the fiscal year; and

(ii) the agency is eligible to receive 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.

(B) Modernization grants

A local educational agency is eligible to receive a modernization grant under paragraph (2)(C) if—

(i) the agency is eligible to receive assistance under this subchapter for the fiscal year;

(ii) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i); and

(iii) the agency has facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of tax-exempt Federal property, or an increase in enrollment due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.

(C) Additional eligibility for emergency and modernization grants

(i) A local educational agency is eligible to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, if the agency meets the following requirements:

(I) The agency receives a basic support payment under section 7703(b) of this title for the fiscal year and the agency meets at least one of the following requirements:

(aa) 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 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(bb) 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 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(II) The agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) is at not less than 75 percent of the agency's limit of bonded indebtedness.

(III) The agency has an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(ii) A local educational agency is also eligible to receive a modernization grant under this subparagraph if the agency is eligible to receive assistance under section 7702 of this title for the fiscal year and meets the requirements of subclauses (II) and (III) of clause (i).

(D) Special rule

(i) In general

Any school described in clause (ii) that desires to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, shall, except as provided in the following sentence, submit an application in accordance with paragraph (6), and shall otherwise be treated as a local educational agency for the purpose of this subsection. The school shall submit an application for the grant to the local educational agency of such school and the agency shall submit the application on behalf of the school to the Secretary.

(ii) School described

A school described in this clause is a school that meets the following requirements:

(I) The school is located within the geographic boundaries of a local educational agency that does not meet the applicable eligibility requirements under subparagraph (A), (B), or (C) for a grant under this subsection.

(II) The school meets at least one of the following requirements:

(aa) The number of children determined under section 7703(a)(1)(C) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(III) The school is located within the geographic boundaries of a local educational agency that meets the requirements of subclauses (II) and (III) of subparagraph (C)(i).

(E) Rule of construction

For purposes of subparagraph (A)(i), a local educational agency—

(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is at least $25,000,000 but not more than $50,000,000.

(4) Award criteria

In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

(i) the agency's level of bonded indebtedness;

(ii) the assessed value of real property per student that may be taxed for school purposes compared to the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located;

(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

(iv) funds that are available to the agency, from any other source, including subsection (a) of this section, that may be used for capital expenditures.

(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 7703(a)(1) of this title served in the school facility with the emergency or served in the school facility proposed for modernization, as the case may be.

(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

(E) In the case of a modernization grant—

(i) the severity of the need for modernization, as measured by such factors as—

(I) overcrowding, as evidenced by the use of portable classrooms, or the potential for future overcrowding because of increased enrollment; or

(II) the agency's inability to utilize technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

(ii) the age of the school facility proposed for modernization.

(5) Other award provisions

(A) General provisions

(i) Limitations on amount of funds

(I) In general

The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i) for purposes of eligibility under subparagraph (A) or (B) of paragraph (3) or that meets the requirements of clause (i) or (ii) of paragraph (3)(C) for purposes of eligibility under such paragraph (3)(C), or to a school that is eligible under paragraph (3)(D)—

(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

(bb) shall not exceed $4,000,000 during any 4-year period.

(II) In-kind contributions

A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

(ii) Prohibitions on use of funds

A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for—

(I) a project for a school facility for which the agency does not have full title or other interest;

(II) stadiums or other school facilities that are primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public; or

(III) the acquisition of real property.

(iii) Supplement, not supplant

A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources

to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

(iv) Maintenance costs

Nothing in this subsection shall be construed to authorize the payment of maintenance costs in connection with any school facility modernized in whole or in part with Federal funds provided under this subsection.

(v) Environmental safeguards

All projects carried out with Federal funds provided under this subsection shall comply with all relevant Federal, State, and local environmental laws and regulations.

(vi) Carry-over of certain applications

A local educational agency that applies for an emergency grant or a modernization grant under this subsection for a fiscal year and does not receive the grant for the fiscal year shall have the application for the grant considered for the following fiscal year, subject to the priority requirements of paragraph (2) and the award criteria requirements of paragraph (4).

(B) Emergency grants; prohibition on use of funds

A local educational agency that is awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective than correcting the identified emergency.

(6) Application

A local educational agency that desires to receive an emergency grant or a modernization 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 the following:

(A) A description of how the local educational agency meets the award criteria under paragraph (4), including the information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

(B) In the case of an application for an emergency grant—

(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

(C) In the case of an application for a modernization grant—

(i) an explanation of the need for the school facility modernization project;

(ii) the date on which original construction of the facility to be modernized was completed;

(iii) 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; and

(iv) 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 the project for which a grant under this subsection will be used, including a cost estimate for the project.

(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

(F) Such other information and assurances as the Secretary may reasonably require.

(7) Report

(A) 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.

(B) Definition

In this paragraph, the term ''appropriate congressional committees'' means—

(i) the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives; and

(ii) the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate.

(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; Pub. L. 107–110, title VIII, § 803, Jan. 8, 2002, 115 Stat. 1950.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 amended heading and text generally, reorganizing and revising provisions relating to emergency and modernization grants.

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.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 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.

§ 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) 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 and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) 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

[1] See References in Text note below.

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 children 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; Pub. L. 107–110, title VIII, § 804, Jan. 8, 2002, 115 Stat. 1956.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 inserted ''and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title'' after ''section 7703(a)(2)(B) of this title''.

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 Septem-

ber 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''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 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 (2).

(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 (2).

(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 title on behalf of children described in paragraph (1).

(d) Timely payments

(1) In general

Subject to paragraph (2), the Secretary shall pay a local educational agency the full amount that the agency is eligible to receive under this subchapter for a fiscal year not later than September 30 of the second fiscal year following the fiscal year for which such amount has been appropriated if, not later than 1 calendar year following the fiscal year in which such amount has been appropriated, such local educational agency submits to the Secretary all the data and information necessary for the Secretary to pay the full amount that the agency is eligible to receive under this subchapter for such fiscal year.

(2) Payments with respect of fiscal years in which insufficient funds are appropriated

For a fiscal year in which the amount appropriated under section 7714 of this title is insufficient to pay the full amount a local educational agency is eligible to receive under this subchapter, paragraph (1) shall be applied by substituting ''is available to pay the agency'' for ''the agency is eligible to receive'' each place the term appears.

(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; Pub. L. 112–239, div. A, title V, § 563(b)(3), (c)(4), Jan. 2, 2013, 126 Stat. 1747, 1748.)

AMENDMENT OF SECTION

For termination of amendment by section 563(c) of Pub. L. 112–239, see Effective and Termination Dates of 2013 Amendment note below.

AMENDMENTS

2013—Subsec. (c)(1). Pub. L. 112–239, § 563(b)(3)(A), (c)(4), temporarily substituted ''paragraph (2)'' for ''paragraph (3) of this subsection'' in subpars. (A) and (B). See Effective and Termination Dates of 2013 Amendment note below.

Subsec. (d). Pub. L. 112–239, § 563(b)(3)(B), (c)(4), temporarily added subsec. (d). See Effective and Termination Dates of 2013 Amendment note below.

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).

EFFECTIVE AND TERMINATION DATES OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective for a 2-year period beginning on Jan. 2, 2013, and repealed on the day after the 2-year period and this subchapter to be applied as if the amendment had never been enacted, see section 563(c) of Pub. L. 112–239 set out as a note under section 7702 of this title.

§ 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].''

§ 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.

§ 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.

§ 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 seven 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 seven 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 seven 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 fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five 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 seven 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; Pub. L. 107–110, title VIII, § 805, Jan. 8, 2002, 115 Stat. 1956.)

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107–110, § 805(a), substituted ''seven succeeding fiscal years'' for ''three succeeding fiscal years''.

Subsec. (e). Pub. L. 107–110, § 805(b), substituted ''for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years'' for ''for each of the three succeeding fiscal years''.

Subsec. (f). Pub. L. 107–110, § 805(a), substituted ''seven succeeding fiscal years'' for ''three succeeding fiscal years''.

Subsec. (g). Pub. L. 107–110, § 805(c), struck out heading and text of subsec. (g). Text read as follows: ''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.''

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).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER IX—GENERAL PROVISIONS

CODIFICATION

Title IX of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title IX is shown, herein, as having been added by Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1956, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—DEFINITIONS

§ 7801. Definitions

Except as otherwise provided, in this chapter:

(1) Average daily attendance

(A) In general

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 that year.

(B) Conversion

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 other similar data).

(C) Special rule

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 the purpose of this chapter—

(i) consider the child to be in attendance at a school of the agency making the payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

(D) Children with disabilities

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 a disability, as defined in section 1401 of this title, the Secretary shall, for the purpose of this chapter, consider the child to be in attendance at a school of the agency making the 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 those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(3) Beginning teacher

The term ''beginning teacher'' means a teacher in a public school who has been teaching less than a total of three complete school years.

(4) Child

The term ''child'' means any person within the age limits for which the State provides free public education.

(5) Child with a disability

The term ''child with a disability'' has the same meaning given that term in section 1401 of this title.

(6) 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.

(7) Consolidated local application

The term ''consolidated local application'' means an application submitted by a local educational agency pursuant to section 7845 of this title.

(8) Consolidated local plan

The term ''consolidated local plan'' means a plan submitted by a local educational agency pursuant to section 7845 of this title.

(9) Consolidated State application

The term ''consolidated State application'' means an application submitted by a State educational agency pursuant to section 7842 of this title.

(10) Consolidated State plan

The term ''consolidated State plan'' means a plan submitted by a State educational agency pursuant to section 7842 of this title.

(11) Core academic subjects

The term ''core academic subjects'' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(12) 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.

(13) Covered program

The term ''covered program'' means each of the programs authorized by—

(A) part A of subchapter I of this chapter;

(B) subpart 3 of part B of subchapter I of this chapter;

(C) part C of subchapter I of this chapter;

(D) part D of subchapter I of this chapter;

(E) part F of subchapter I of this chapter;

(F) part A of subchapter II of this chapter;

(G) part D of subchapter II of this chapter;

(H) part A of subchapter III of this chapter;

(I) part A of subchapter IV of this chapter;

(J) part B of subchapter IV of this chapter;

(K) part A of subchapter V of this chapter; and

(L) subpart 2 of part B of subchapter VI of this chapter.

(14) 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 part A of subchapter V of this chapter.

(15) Department

The term ''Department'' means the Department of Education.

(16) Distance learning

The term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(17) 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.

(18) 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.

(19) Exemplary teacher

The term ''exemplary teacher'' means a teacher who—

(A) is a highly qualified teacher such as a master teacher;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual's performance;

(D) is currently teaching and based in a public school; and

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

(20) 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.

(21) 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 school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

(22) 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 achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

(23) Highly qualified

The term ''highly qualified''—

(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—

(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and

(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

(B) when used with respect to—

(i) an elementary school teacher who is new to the profession, means that the teacher—

(I) holds at least a bachelor's degree; and

(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—

(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—

(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or

(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—

(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

(VI) is made available to the public upon request; and

(VII) may involve multiple, objective measures of teacher competency.

(24) Institution of higher education

The term ''institution of higher education'' has the meaning given that term in section 1001(a) of this title.

(25) Limited English proficient

The term ''limited English proficient'', when used with respect to an individual, means an individual—

(A) who is aged 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) who was not born in the United States or whose native language is a language other than English;

(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) the ability to meet the State's proficient level of achievement on State assessments described in section 6311(b)(3) of this title;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

(26) Local educational agency

(A) In general

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 schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) Administrative control and direction

The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) BIA schools

The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the 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 the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(D) Educational service agencies

The term includes educational service agencies and consortia of those agencies.

(E) State educational agency

The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

(27) Mentoring

The term ''mentoring'', except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(28) Native American and Native American language

The terms ''Native American'' and ''Native American language'' have the same meaning given those terms in section 2902 of title 25.[1]

(29) Other staff

The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(30) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 6331(b) of this title and any other discretionary grant program under this chapter, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until an agreement for the extension of United States education assistance under the Compact of Free Association for each of the freely associated states becomes effective after January 8, 2002.

(31) Parent

The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(32) Parental involvement

The term ''parental involvement'' means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

(A) that parents play an integral role in assisting their child's learning;

(B) that parents are encouraged to be actively involved in their child's education at school;

(C) that parents are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child;

(D) the carrying out of other activities, such as those described in section 6318 of this title.

(33) Poverty line

The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(34) Professional development

The term ''professional development''—

(A) includes activities that—

(i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;

(iv) improve classroom management skills;

(v)(I) are high quality, sustained, intensive, and classroom-focused in order to

[1] See References in Text note below.

have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and

(II) are not 1-day or short-term workshops or conferences;

(vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;

(vii) advance teacher understanding of effective instructional strategies that are—

(I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of subchapter II of this chapter); and

(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

(viii) are aligned with and directly related to—

(I) State academic content standards, student academic achievement standards, and assessments; and

(II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 6623(3)(B)[2] of this title;

(ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this chapter;

(x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(xiii) provide instruction in methods of teaching children with special needs;

(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

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

(B) may include activities that—

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

(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of subchapter I of this chapter) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

(35) Public telecommunications entity

The term ''public telecommunications entity'' has the meaning given that term in section 397(12) of title 47.

(36) Pupil services personnel; pupil services

(A) Pupil services personnel

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 that term is defined in section 1401 of this title) as part of a comprehensive program to meet student needs.

(B) Pupil services

The term ''pupil services'' means the services provided by pupil services personnel.

(37) Scientifically based research

The term ''scientifically based research''—

(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) includes 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 reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experi-

[2] So in original. Probably should be section ''6623(a)(3)(B)''.

ments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(38) 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 the term does not include any education beyond grade 12.

(39) Secretary

The term ''Secretary'' means the Secretary of Education.

State[3]

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(41) State educational agency

The term ''State educational agency'' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

(42) Teacher mentoring

The term ''teacher mentoring'' means activities that—

(A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—

(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

part[4] of an ongoing developmental induction process—

(I) involve the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

(43) Technology

The term ''technology'' means state-of-the-art technology products and services.

(Pub. L. 89–10, title IX, § 9101, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1956.)

[3] So in original. Probably should be preceded by paragraph designation ''(40)''.

[4] So in original. Probably should be preceded by ''(ii) as''.

REFERENCES IN TEXT

Section 2902 of title 25, referred to in par. (28), was in the original ''section 103 of the Native American Languages Act of 1990'', which was translated as meaning section 103 of the Native American Languages Act, Pub. L. 101–477, to reflect the probable intent of Congress.

REFERENCES TO PART A OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PART B OF SUBCHAPTER III

References to part A of subchapter III of this chapter are considered to be references to part B of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 7801, Pub. L. 89–10, title IX, § 9101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3773, set forth findings regarding Indian education, prior to the general amendment of this subchapter by Pub. L. 107–110.

HIGHLY QUALIFIED TEACHER

Pub. L. 111–242, § 163, as added by Pub. L. 111–322, title I, § 1(a)(2), Dec. 22, 2010, 124 Stat. 3521; amended by Pub. L. 112–175, § 145, Sept. 28, 2012, 126 Stat. 1322, provided that:

''(a) A 'highly qualified teacher' includes a teacher who meets the requirements in 34 CFR 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

''(b) This provision is effective on the date of enactment of this provision [Dec. 22, 2010] through the end of the 2013–2014 academic year.

''(c) Not later than December 31, 2013, the Secretary of Education shall submit a report to the Committees on Appropriations and Health, Education, Labor, and Pensions of the Senate and the Committees on Appropriations and Education and the Workforce of the House of Representatives, using data required under existing law (section 1111(h)(6)(A) of Public Law 107–110 [probably means section 1111(h)(6)(A) of Pub. L. 89–10, as added by Pub. L. 107–110; 20 U.S.C. 6311(h)(6)(A)]) by State and each local educational agency, regarding the extent to which students in the following categories are taught by teachers who are deemed highly qualified pursuant to 34 CFR 200.56(a)(2)(ii) as published in the Federal Register on December 2, 2002:

''(1) Students with disabilities.

''(2) English Learners.

''(3) Students in rural areas.

''(4) Students from low-income families.''

§ 7802. Applicability of subchapter

Parts B, C, D, and E of this subchapter do not apply to subchapter VIII of this chapter.

(Pub. L. 89–10, title IX, § 9102, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

A prior section 7802, Pub. L. 89–10, title IX, § 9102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774, set out purpose of provisions relating to Indian education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7402 of this title.

§ 7803. Applicability to Bureau of Indian Affairs operated schools

For the purpose of any competitive program under this chapter—

(1) a consortium of schools operated by the Bureau of Indian Affairs;

(2) a school operated under a contract or grant with the Bureau of Indian Affairs in con-

sortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Affairs school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

(Pub. L. 89–10, title IX, § 9103, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

Prior sections 7811 to 7818 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7811, Pub. L. 89–10, title IX, § 9111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774, set forth purpose of provisions relating to formula grants to local educational agencies. See section 7421 of this title.

Section 7812, 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, related to grants to local educational agencies. See section 7422 of this title.

Section 7813, Pub. L. 89–10, title IX, § 9113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3775, related to amount of grants. See section 7423 of this title.

Section 7814, Pub. L. 89–10, title IX, § 9114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3776, related to applications for grants. See section 7424 of this title.

Section 7815, 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, related to authorized services and activities. See section 7425 of this title.

Section 7816, Pub. L. 89–10, title IX, § 9116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3779, related to student eligibility forms. See section 7427 of this title.

Section 7817, Pub. L. 89–10, title IX, § 9117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3781, related to payments. See section 7428 of this title.

Section 7818, Pub. L. 89–10, title IX, § 9118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782, related to State educational agency review. See section 7429 of this title.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§ 7821. 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 it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

(2) Applicability

This section applies to any program under this chapter under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

(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 programs included in the consolidation under subsection (a) of this section, such as—

(A) the coordination of those 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;

(E) technical assistance under any program under this chapter;

(F) State-level activities designed to carry out this subchapter;

(G) training personnel engaged in audit and other monitoring activities; and

(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

(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 that administration.

(e) Unused administrative funds

If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those 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 academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) of this section for those purposes under subchapter I of this chapter.

(Pub. L. 89–10, title IX, § 9201, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

A prior section 9201 of Pub. L. 89–10 was classified to section 7901 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7822. Single local educational agency States

A State educational agency that also serves as a local educational agency shall, in its applications or plans under this chapter, describe how the agency will eliminate duplication in conducting administrative functions.

(Pub. L. 89–10, title IX, § 9202, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1967.)

PRIOR PROVISIONS

A prior section 9202 of Pub. L. 89–10 was classified to section 7902 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7823. Consolidation of funds for local administration.

(a) General authority

In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this chapter (or such other programs as the Secretary shall designate) not more than the percentage, established in each program, of the total available for the local educational agency under those programs.

(b) State procedures

Within 1 year after January 8, 2002, 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 those 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 the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 7821(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 program, to account for costs relating to the administration of the programs included in the consolidation.

(Pub. L. 89–10, title IX, § 9203, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1967.)

PRIOR PROVISIONS

A prior section 9203 of Pub. L. 89–10 was classified to section 7903 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7824. 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 VII 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) In general

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) Contents

The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement 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 its costs related to the administration of the funds transferred under this section.

(Pub. L. 89–10, title IX, § 9204, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

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.

PRIOR PROVISIONS

A prior section 9204 of Pub. L. 89–10 was classified to section 7904 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7831 to 7835 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7831, Pub. L. 89–10, title IX, § 9121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782, related to improvement of educational opportunities for Indian children. See section 7441 of this title.

Section 7832, Pub. L. 89–10, title IX, § 9122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3784, related to professional development. See section 7442 of this title.

Section 7833, Pub. L. 89–10, title IX, § 9123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3786, authorized fellowships for Indian students. See section 7453 of this title.

Section 7834, 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, related to gifted and talented Indian students. See section 7454 of this title.

Section 7835, Pub. L. 89–10, title IX, § 9125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3789, related to grants to tribes for education administrative planning and development. See section 7455 of this title.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§ 7841. Purposes

The purposes of this part are—

(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

(3) to enhance the integration of programs under this chapter with State and local programs.

(Pub. L. 89–10, title IX, § 9301, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

PRIOR PROVISIONS

A prior section 9301 of Pub. L. 89–10 was classified to section 7931 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7842. 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, after consultation with the Governor, 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) such other programs as the Secretary may designate.

(2) Consolidated applications and plans

After consultation with the Governor, 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 educational 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 paragraph (1), the Secretary shall establish, for each program under this 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 (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

(Pub. L. 89–10, title IX, § 9302, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

PRIOR PROVISIONS

A prior section 9302 of Pub. L. 89–10 was classified to section 7932 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7843. Consolidated reporting

(a) In general

In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

(b) Contents

The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

(c) Replacement

The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

(Pub. L. 89–10, title IX, § 9303, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1969.)

PRIOR PROVISIONS

A prior section 9303 of Pub. L. 89–10 was classified to section 7933 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7844. General applicability of State educational agency assurances

(a) Assurances

A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this chapter, whether separately or under section 7842 of this title, shall have on file with the Secretary a single set of assurances, applicable to each program for which the 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, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those 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 the 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 such 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 afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

(b) GEPA provision

Section 441 of the General Education Provisions Act [20 U.S.C. 1232d] shall not apply to programs under this chapter.

(Pub. L. 89–10, title IX, § 9304, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1969.)

PRIOR PROVISIONS

A prior section 9304 of Pub. L. 89–10 was classified to section 7934 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7845. Consolidated local plans or applications

(a) General authority

(1) Consolidated plan

A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

(2) Availability to Governor

The State educational agency shall make any consolidated local plans and applications available to the Governor.

(b) Required consolidated plans or applications

A State educational agency that has an approved consolidated State plan or application under section 7842 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 those programs, but may not require those agencies to submit separate plans.

(c) Collaboration

A State educational agency, in consultation with the Governor, 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 IX, § 9305, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1970.)

PRIOR PROVISIONS

A prior section 9305 of Pub. L. 89–10 was classified to section 7935 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7846. 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 7845 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 those entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the 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 the applicant under each such program;

(6) the applicant will—

(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require 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 considered such comment.

(b) GEPA provision

Section 442 of the General Education Provisions Act [20 U.S.C. 1232e] shall not apply to programs under this chapter.

(Pub. L. 89–10, title IX, § 9306, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1971.)

PRIOR PROVISIONS

A prior section 9306 of Pub. L. 89–10 was classified to section 7936 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 7851, Pub. L. 89–10, title IX, § 9131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3790, which related to improvement of educational opportunities for adult Indians, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7456 of this title.

PART D—WAIVERS

§ 7861. 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 that desires a waiver shall submit a waiver request to the Secretary that—

(A) identifies the Federal programs affected by the requested waiver;

(B) describes which Federal statutory or regulatory requirements are to be waived and how the waiving of those requirements will—

(i) increase the quality of instruction for students; and

(ii) improve the academic achievement of students;

(C) describes, for each school year, specific, measurable educational goals, in accordance with section 6311(b) of this title, for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to measure annually such progress for meeting such goals and outcomes;

(D) explains how the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching those goals; and

(E) 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 those agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of, and based on the requests of, local educational agencies) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

(3) General requirements

(A) State educational agencies

In the case of a waiver request submitted by a State educational agency acting on 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 in which the applying agency customarily provides similar notices and information to the public.

(B) Local educational agencies

In the case of a waiver request submitted by a local educational agency that receives funds under this chapter—

(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the 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 in which that 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 subpart 1 of part B of subchapter V of this chapter;

(9) the prohibitions regarding—

(A) State aid in section 7902 of this title;

(B) use of funds for religious worship or instruction in section 7885 of this title; and

(C) activities in section 7906 of this title; or

(10) the selection of a school attendance area or school under subsections (a) and (b) of section 6313 of this title, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of subchapter I of this chapter if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 6313 of this title.

(d) Duration and extension of waiver

(1) In general

Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 4 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 recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

(B) the 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 the waiver by the agency or by schools;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

(C) evaluates the progress of the agency and of schools in improving the quality of instruction or the academic achievement 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 those 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 the waiver by schools operated by the tribe; and

(B) evaluates the progress of those schools in improving the quality of instruction or the academic achievement of students.

(4) Report to Congress

Beginning in fiscal year 2002 and for each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions 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 the waivers—

(i) increased the quality of instruction to students; or

(ii) improved the academic achievement of students.

(f) Termination of waivers

The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, 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 the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

(Pub. L. 89–10, title IX, § 9401, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1972.)

PRIOR PROVISIONS

A prior section 7861, Pub. L. 89–10, title IX, § 9141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792, related to national activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7451 of this title.

Prior sections 7871 to 7874 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7871, Pub. L. 89–10, title IX, § 9151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792, established National Advisory Council on Indian Education. See section 7471 of this title.

Section 7872, Pub. L. 89–10, title IX, § 9152, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to peer review of applications. See section 7472 of this title.

Section 7873, Pub. L. 89–10, title IX, § 9153, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to preference for Indian applicants for grants. See section 7473 of this title.

Section 7874, Pub. L. 89–10, title IX, § 9154, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to minimum grant criteria. See section 7474 of this title.

PART E—UNIFORM PROVISIONS

SUBPART 1—PRIVATE SCHOOLS

§ 7881. 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 areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the 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 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 the program and shall be provided in a timely manner.

(4) Expenditures

Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those 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

An agency, consortium, or entity described in subsection (a)(1) of this section may provide those 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) subparts 1 and 3 of part B of subchapter I of this chapter;

(B) part C of subchapter I of this chapter;

(C) part A of subchapter II of this chapter, to the extent provided in paragraph (3);

(D) part B of subchapter II of this chapter;

(E) part D of subchapter II of this chapter;

(F) part A of subchapter III of this chapter;

(G) part A of subchapter IV of this chapter; and

(H) part B of subchapter IV of this chapter.

(2) Definition

For the purpose of this section, the term ''eligible children'' means children eligible for services under a program described in paragraph (1).

(3) Application

(A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4) of this section, applies to funds awarded to a local educational agency under part A of subchapter II of this chapter only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of subchapter II of this chapter that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) of this section shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding January 8, 2002) and section 306 of the Department of Education Appropriations Act, 2001.

(c) Consultation

(1) In general

To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity 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, where, and by whom the services will be provided;

(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

(F) how and when the agency, consortium, or entity will make decisions about the de-

livery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) Disagreement

If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) Timing

The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter, and shall continue throughout the implementation and assessment of activities under this section.

(4) Discussion required

The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity 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 those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.

(2) Provision of services

(A) In general

The provision of services under this section shall be provided—

(i) by employees of a public agency; or

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

(B) Independence; public agency

In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) Commingling of funds prohibited

Funds used to provide services under this section shall not be commingled with non-Federal funds.

(Pub. L. 89–10, title IX, § 9501, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1975.)

REFERENCES IN TEXT

Section 2203(1)(B) (as such section was in effect on the day preceding January 8, 2002), referred to in subsec. (b)(3)(B), means section 2203(1)(B) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6643(1)(B) of this title prior to the general amendment of subchapter II of this chapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (b)(3)(B), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763, 2763A–41, which is not classified to the Code.

REFERENCES TO PART A OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PART B OF SUBCHAPTER III

References to part A of subchapter III of this chapter are considered to be references to part B of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 7881, 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, defined terms, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7491 of this title.

§ 7882. Standards for by-pass

(a) In general

If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 7881 of this title, the Secretary shall—

(1) waive the requirements of that section for the agency, consortium, or entity; and

(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 7881, 7883, and 7884 of this title.

(b) Determination

In making the determination under subsection (a) of this section, the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

(Pub. L. 89–10, title IX, § 9502, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1977.)

PRIOR PROVISIONS

A prior section 7882, Pub. L. 89–10, title IX, § 9162, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7492 of this title.

§ 7883. 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 7881 of this title by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the 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

The 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. The 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 the appeal not later than 120 days after receipt of the appeal.

(Pub. L. 89–10, title IX, § 9503, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1977.)

§ 7884. By-pass determination process

(a) Review

(1) In general

(A) Written objections

The Secretary shall not take any final action under section 7882 of this title until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the 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) Prior to reduction

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 educational agency 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) Petition

If the affected agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

(B) Transmission

A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) Filing

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 the action, as provided in section 2112 of title 28.

(3) Findings of fact

(A) In general

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) New or modified findings

Any new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction

(A) In general

Upon the filing of a petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part.

(B) Judgment

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 that agency, consortium, or entity 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 the agency, consortium, or entity to meet the applicable requirements of section 7881 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 those 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 chapter as in effect on the day preceding January 8, 2002, shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

(Pub. L. 89–10, title IX, § 9504, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1978.)

§ 7885. 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 IX, § 9505, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1979.)

§ 7886. Private, religious, and home schools

(a) Applicability to nonrecipient private schools

Nothing in this chapter shall be construed to affect any private school that does not receive funds or services under this chapter, nor shall any student who attends a private school that does not receive funds or services under this chapter be required to participate in any assessment referenced in this chapter.

(b) Applicability to home schools

Nothing in this chapter shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this chapter.

(c) Rule of construction on prohibition of Federal control over 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.

(d) Rule of construction on State and local educational agency mandates

Nothing in this chapter shall be construed to require any State educational agency or local educational agency that receives funds under this chapter to mandate, direct, or control the curriculum of a private or home school, regardless or[1] whether or not a home school is treated as a private school under state[2] law, nor shall any funds under this chapter be used for this purpose.

(Pub. L. 89–10, title IX, § 9506, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1979.)

SUBPART 2—OTHER PROVISIONS

§ 7901. 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 the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the 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 by 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 the 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 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 IX, § 9521, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7901, Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7511 of this title.

§ 7902. 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 that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title IX, § 9522, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7902, Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7512 of this title.

§ 7903. Privacy of assessment results

Any results from an individual assessment referred to in this chapter of a student that become part of the education records of the student shall have the protections provided in section 1232g of this title.

(Pub. L. 89–10, title IX, § 9523, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7903, Pub. L. 89–10, title IX, § 9203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798, set forth purpose of provisions relating to Native Hawaiian educational programs. See section 7513 of this title.

§ 7904. School prayer

(a) Guidance

The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and second-

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

[2] So in original. Probably should be capitalized.

ary schools, including making the guidance available on the Internet. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

(b) Certification

As a condition of receiving funds under this chapter, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a) of this section. The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

(c) Enforcement

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

(Pub. L. 89–10, title IX, § 9524, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7904, Pub. L. 89–10, title IX, § 9204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798, established the Native Hawaiian Education Council and island councils, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7514 of this title.

§ 7905. Equal access to public school facilities

(a) Short title

This section may be cited as the ''Boy Scouts of America Equal Access Act''.

(b) In general

(1) Equal access

Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 (as a patriotic society).

(2) Voluntary sponsorship

Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society).

(c) Termination of assistance and other action

(1) Departmental action

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b) of this section.

(2) Procedure

The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 2000d–1 of title 42. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

(3) Judicial review

Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 2000d–2 of title 42. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 2000d–2 of title 42.

(d) Definition and rule

(1) Definition

In this section, the term ''youth group'' means any group or organization intended to serve young people under the age of 21.

(2) Rule

For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

(Pub. L. 89–10, title IX, § 9525, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1981.)

PRIOR PROVISIONS

A prior section 7905, Pub. L. 89–10, title IX, § 9205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3800, related to Native Hawaiian Family-Based Education Centers, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7906. 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 that instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of contraceptive 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 school's 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 IX, § 9526, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1982.)

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.

PRIOR PROVISIONS

A prior section 7906, Pub. L. 89–10, title IX, § 9206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800, authorized grants for a Native Hawaiian higher education program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7907. Prohibitions on Federal Government and use of Federal funds

(a) General prohibition

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.

(b) Prohibition on endorsement of curriculum

Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this chapter may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(c) Prohibition on requiring Federal approval or certification of standards

(1) In general

Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(2) Rule of construction

Nothing in this subsection shall be construed to affect requirements under subchapter I of this chapter or part A of subchapter VI of this chapter.

(d) Rule of construction on building standards

Nothing in this chapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89–10, title IX, § 9527, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7907, Pub. L. 89–10, title IX, § 9207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3801, related to Native Hawaiian gifted and talented program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7908. Armed Forces recruiter access to students and student recruiting information

(a) Policy

(1) Access to student recruiting information

Notwithstanding section 1232g(a)(5)(B) of this title and except as provided in paragraph (2), each local educational agency receiving assistance under this chapter shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, addresses, and telephone listings.

(2) Consent

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.

(3) Same access to students

Each local educational agency receiving assistance under this chapter shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

(b) Notification

The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after January 8, 2002, notify principals, school administrators, and other educators about the requirements of this section.

(c) Exception

The requirements of this section do not apply to a private secondary school that maintains a

religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

(d) Special rule

A local educational agency prohibited by Connecticut State law (either explicitly by statute or through statutory interpretation by the State Supreme Court or State Attorney General) from providing military recruiters with information or access as required by this section shall have until May 31, 2002, to comply with that requirement.

(Pub. L. 89–10, title IX, § 9528, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7908, Pub. L. 89–10, title IX, § 9208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3802, related to Native Hawaiian special education programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7909. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided under this chapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(5) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 89–10, title IX, § 9529, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984; amended Pub. L. 107–279, title IV, § 404(d)(9), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 7909, Pub. L. 89–10, title IX, § 9209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3803, related to Native Hawaiian curriculum development and teacher training and recruitment programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–279 substituted ''section 9543(a)(5) of this title'' for ''section 9003(a)(6) of this title''.

§ 7910. Limitations on national testing or certification for teachers

(a) Mandatory national testing or certification of teachers

Notwithstanding any other provision of this chapter or any other provision of law, no funds available to the Department or otherwise available under this chapter may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

(b) Prohibition on withholding funds

The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

(Pub. L. 89–10, title IX, § 9530, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7910, Pub. L. 89–10, title IX, § 9210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804, related to Native Hawaiian community-based education learning centers, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7911. Prohibition on nationwide database

Nothing in this chapter (other than section 6398(b) of this title) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this chapter.

(Pub. L. 89–10, title IX, § 9531, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7911, Pub. L. 89–10, title IX, § 9211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804, set out administrative provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7516 of this title.

§ 7912. Unsafe school choice option

(a) Unsafe school choice policy

Each State receiving funds under this chapter shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

(b) Certification

As a condition of receiving funds under this chapter, a State shall certify in writing to the Secretary that the State is in compliance with this section.

(Pub. L. 89–10, title IX, § 9532, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7912, Pub. L. 89–10, title IX, § 9212, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, defined terms, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7517 of this title.

§ 7913. Prohibition on discrimination

Nothing in this chapter shall be construed to require, authorize, or permit, the Secretary, or a

State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

(Pub. L. 89–10, title IX, § 9533, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

§ 7914. Civil rights

(a) In general

Nothing in this chapter shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national origin, or disability in any program funded under this chapter.

(b) Rule of construction

Nothing in this chapter shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 6316 of this title and part B of subchapter V of this chapter, at the commencement of the entity's participation in a grant under section 6316 of this title or part B of subchapter V of this chapter.

(Pub. L. 89–10, title IX, § 9534, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§ 7915. Rulemaking

The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

(Pub. L. 89–10, title IX, § 9535, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

§ 7916. Severability

If any provision of this chapter is held invalid, the remainder of this chapter shall be unaffected thereby.

(Pub. L. 89–10, title IX, § 9536, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

PRIOR PROVISIONS

Sections 7931 to 7938 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7931, Pub. L. 89–10, title IX, § 9301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, set forth short title of the Alaska Native Educational Equity, Support and Assistance Act. See section 7541 of this title.

Section 7932, Pub. L. 89–10, title IX, § 9302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, set forth findings. See section 7542 of this title.

Section 7933, Pub. L. 89–10, title IX, § 9303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806, stated purpose of former part C of this subchapter. See section 7543 of this title.

Section 7934, Pub. L. 89–10, title IX, § 9304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806, related to Alaska Native educational planning, curriculum development, and teacher training and recruitment programs. See section 7544 of this title.

Section 7935, Pub. L. 89–10, title IX, § 9305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3807, related to Alaska Native home based education for preschool children.

Section 7936, Pub. L. 89–10, title IX, § 9306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3808, related to Alaska Native student enrichment programs.

Section 7937, Pub. L. 89–10, title IX, § 9307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809, set forth administrative provisions. See section 7545 of this title.

Section 7938, Pub. L. 89–10, title IX, § 9308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809, defined terms. See section 7546 of this title.

PART F—EVALUATIONS

§ 7941. Evaluations

(a) Reservation of funds

Except as provided in subsections (b) and (c) of this section, the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this chapter—

(1) to conduct—

(A) comprehensive evaluations of the program or project; and

(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this chapter and related Federal preschool, elementary, and secondary programs under any other Federal law; and

(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

(b) Subchapters I and III excluded

The Secretary may not reserve under subsection (a) of this section funds appropriated to carry out any program authorized under subchapter I or subchapter III of this chapter.

(c) Evaluation activities authorized elsewhere

If, under any other provision of this chapter (other than subchapter I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of that program or project.

(Pub. L. 89–10, title IX, § 9601, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

§§ 8001 to 8007. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8001, 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, related to fund for the improvement of education. See section 7243 of this title.

Section 8002, Pub. L. 89–10, title X, §10102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3812, related to elementary school counseling demonstration.

Section 8003, Pub. L. 89–10, title X, §10103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3815, related to partnerships in character education pilot project.

Section 8004, 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, related to promotion of scholar-athlete competitions.

Section 8005, Pub. L. 89–10, title X, §10105, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3818, related to development and implementation of smaller learning communities.

Section 8006, Pub. L. 89–10, title X, §10106, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, related to national student and parent mock election.

Section 8007, Pub. L. 89–10, title X, §10107, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, related to model projects of outreach activities for at-risk children.

PART B—GIFTED AND TALENTED CHILDREN

§§ 8031 to 8037. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8031, Pub. L. 89–10, title X, §10201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, set forth short title of the Jacob K. Javits Gifted and Talented Students Education Act of 1994. See section 7253 of this title.

Section 8032, Pub. L. 89–10, title X, §10202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3820, set forth findings and purposes. See section 7253a of this title.

Section 8033, Pub. L. 89–10, title X, §10203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3822, related to construction of provisions. See section 7253b of this title.

Section 8034, Pub. L. 89–10, title X, §10204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3822, related to authorized programs. See section 7253c of this title.

Section 8035, Pub. L. 89–10, title X, §10205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3823, set forth program priorities. See section 7253d of this title.

Section 8036, Pub. L. 89–10, title X, §10206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, set forth general provisions. See section 7253e of this title.

Section 8037, Pub. L. 89–10, title X, §10207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, authorized appropriations.

PART C—PUBLIC CHARTER SCHOOLS

SUBPART 1—BASIC CHARTER SCHOOL GRANT PROGRAM

§§ 8061 to 8067. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8061, 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, set forth findings and purpose. See section 7221 of this title.

Section 8062, 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, authorized charter school grant program. See section 7221a of this title.

Section 8063, 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, related to applications. See section 7221b of this title.

Section 8064, 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, related to administration. See section 7221c of this title.

Section 8065, 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, related to national activities. See section 7221d of this title.

Section 8065a, Pub. L. 89–10, title X, §10306, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2687, related to Federal formula allocation during first year and for successive enrollment expansions. See section 7221e of this title.

Section 8065b, 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, related to solicitation of input from charter school operators. See section 7221f of this title.

Section 8065c, Pub. L. 89–10, title X, §10308, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688, related to records transfer. See section 7221g of this title.

Section 8065d, 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, related to paperwork reduction. See section 7221h of this title.

Section 8066, 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, defined terms. See section 7221i of this title.

Section 8067, 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, authorized appropriations. See section 7221j of this title.

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§§ 8071 to 8071j. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8071, 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, set forth purpose. See section 7223 of this title.

Section 8071a, 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, related to grants to eligible entities. See section 7223a of this title.

Section 8071b, 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, related to applications. See section 7223b of this title.

Section 8071c, 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, set forth charter school objectives. See section 7223c of this title.

Section 8071d, 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, related to reserve account. See section 7223d of this title.

Section 8071e, 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, related to limitation on administrative costs. See section 7223e of this title.

Section 8071f, 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, related to audits and reports. See section 7223f of this title.

Section 8071g, 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, related to full faith and credit for grantee obligations. See section 7223g of this title.

Section 8071h, 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, related to recovery of funds. See section 7223h of this title.

Section 8071i, 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, defined terms. See section 7223i of this title.

Section 8071j, 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, authorized appropriations. See section 7223j of this title.

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

§ 8091. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

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, related to support for arts education. See section 7271 of this title.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

§§ 8101 to 8105. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8101, Pub. L. 89–10, title X, § 10411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3832, set forth findings and purpose of subpart.

Section 8102, 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, authorized program.

Section 8103, Pub. L. 89–10, title X, § 10413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3835, related to authorized activities.

Section 8104, 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, related to payments, amounts of award, cost share, and limitations.

Section 8105, Pub. L. 89–10, title X, § 10415, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3837, authorized appropriations.

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 8131. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, § 10501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3837, related to inexpensive book distribution program for reading motivation. See section 7251 of this title.

PART F—CIVIC EDUCATION

§§ 8141 to 8143. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8141, Pub. L. 89–10, title X, § 10601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3838, related to instruction on history and principles of democracy in the United States. See section 6714 of this title.

Section 8142, Pub. L. 89–10, title X, § 10602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3839, related to instruction in civics, government, and the law. See section 6714 of this title.

Section 8143, Pub. L. 89–10, title X, § 10603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3840, related to report and authorization of appropriations. See section 6716 of this title.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 8161. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, § 10701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841, set forth findings.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

§§ 8171, 8172. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8171, Pub. L. 89–10, title X, § 10711, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841, authorized grants for fellowships.

Section 8172, Pub. L. 89–10, title X, § 10712, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841, related to applications.

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

§§ 8181, 8182. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8181, Pub. L. 89–10, title X, § 10721, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8182, Pub. L. 89–10, title X, § 10722, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842, related to applications.

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

§§ 8191, 8192. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8191, Pub. L. 89–10, title X, § 10731, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8192, Pub. L. 89–10, title X, § 10732, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843, related to applications.

SUBPART 4—GENERAL PROVISIONS

§§ 8201, 8202. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8201, Pub. L. 89–10, title X, § 10741, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843, set forth administrative provisions.

Section 8202, Pub. L. 89–10, title X, § 10742, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843, authorized appropriations.

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 to 8247. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8241, Pub. L. 89–10, title X, § 10901, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, set forth short title of the 21st Century Community Learning Centers Act.

Section 8242, Pub. L. 89–10, title X, § 10902, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, set forth findings.

Section 8243, Pub. L. 89–10, title X, § 10903, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845, authorized program. See sections 7172 and 7174 of this title.

Section 8244, Pub. L. 89–10, title X, § 10904, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845, required application. See sections 7173 and 7174 of this title.

Section 8245, Pub. L. 89–10, title X, § 10905, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846, related to uses of funds. See sections 7172 and 7175 of this title.

Section 8246, Pub. L. 89–10, title X, § 10906, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846, defined ''Community learning center''. See section 7171 of this title.

Section 8247, Pub. L. 89–10, title X, § 10907, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846, authorized appropriations. See section 7176 of this title.

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

§§ 8271, 8272. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8271, Pub. L. 89–10, title X, § 10951, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847, authorized appropriations.

Section 8272, Pub. L. 89–10, title X, § 10952, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847, defined terms.

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

§§ 8281 to 8284. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8281, Pub. L. 89–10, title X, § 10961, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3848, set forth findings.

Section 8282, Pub. L. 89–10, title X, § 10962, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849, set forth purpose of subpart.

Section 8283, Pub. L. 89–10, title X, § 10963, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849, authorized urban school grants.

Section 8284, Pub. L. 89–10, title X, § 10964, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852, set forth special rules.

SUBPART 2—RURAL EDUCATION INITIATIVE

§§ 8291 to 8297. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8291, 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, set out purpose of this subpart. See section 7341a of this title.

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.

Section 8292, 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, authorized appropriations. See section 7355c of this title.

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.

Section 8293, 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, authorized formula grant program. See sections 7345a and 7351 of this title.

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.

Section 8294, 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, authorized competitive grant program. See sections 7345a and 7351 of this title.

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.

Section 8295, 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, related to accountability. See sections 7345b and 7351c of this title.

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.

Section 8296, 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, related to ratable reductions in case of insufficient appropriations.

Section 8297, 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, related to applicability of former sections 8271 and 8272 of this title.

SUBPART 3—WHITE HOUSE CONFERENCES

§§ 8311, 8312. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8311, Pub. L. 89–10, title X, § 10981, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3857, related to White House Conference on Urban Education.

Section 8312, Pub. L. 89–10, title X, § 10982, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3858, related to White House Conference on Rural Education.

PART K—NATIONAL WRITING PROJECT

§§ 8331, 8332. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8331, Pub. L. 89–10, title X, § 10991, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3859, set forth findings.

Section 8332, Pub. L. 89–10, title X, § 10992, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3861, related to National Writing Project. See section 6702 of this title.

PART L—PHYSICAL EDUCATION FOR PROGRESS

§§ 8351 to 8361. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8351, 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, set forth purpose of part. See section 7261a of this title.

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.

Section 8352, 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, set forth findings.

Section 8353, 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, authorized program. See section 7261b of this title.

Section 8354, 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, related to applications and program elements. See section 7261c of this title.

Section 8355, 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, related to proportionality. See section 7261e of this title.

Section 8356, 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, related to participation of private school students and home-schooled students. See section 7261c of this title.

Section 8357, 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, required report for continued funding. See section 7261d of this title.

Section 8358, 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, required report to Congress. See section 7261e of this title.

Section 8359, 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, related to administrative costs. See section 7261d of this title.

Section 8360, 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, related to Federal share and supplementing, not supplanting, funds. See sections 7261e and 7261f of this title.

Section 8361, 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, authorized appropriations.

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

§§ 8401 to 8407. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8401, Pub. L. 89–10, title XI, § 11001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3867, set forth findings and purpose.

Section 8402, Pub. L. 89–10, title XI, § 11002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868, defined terms.

Section 8403, Pub. L. 89–10, title XI, § 11003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868, related to authority to use funds.

Section 8404, Pub. L. 89–10, title XI, § 11004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868, related to project development and implementation.

Section 8405, Pub. L. 89–10, title XI, § 11005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3869, related to uses of funds.

Section 8406, Pub. L. 89–10, title XI, § 11006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870, related to continuing authority to use funds.

Section 8407, Pub. L. 89–10, title XI, § 11007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870, related to identification of barriers to service coordination.

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

§§ 8501 to 8513. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8501, Pub. L. 89–10, title XII, § 12001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870, set out short title of the Education Infrastructure Act of 1994.

Section 8502, Pub. L. 89–10, title XII, § 12002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870, set forth findings.

Section 8503, Pub. L. 89–10, title XII, § 12003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871, set forth purpose.

Section 8504, Pub. L. 89–10, title XII, § 12004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871, authorized program for improvement of public elementary and secondary education facilities.

Section 8505, Pub. L. 89–10, title XII, § 12005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871, related to award of grants.

Section 8506, Pub. L. 89–10, title XII, § 12006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872, related to applications.

Section 8507, Pub. L. 89–10, title XII, § 12007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872, related to authorized activities.

Section 8508, Pub. L. 89–10, title XII, § 12008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3873, related to budget and accounting, use of funds, powers of Secretary, contracts for supplies or services, and applicability of provisions of title 31.

Section 8509, Pub. L. 89–10, title XII, § 12009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874, related to payment of fair wages.

Section 8510, Pub. L. 89–10, title XII, § 12010, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874, set forth special rules and general limitations.

Section 8511, Pub. L. 89–10, title XII, § 12011, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875, related to Federal assessment.

Section 8512, Pub. L. 89–10, title XII, § 12012, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875, defined terms.

Section 8513, Pub. L. 89–10, title XII, § 12013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875, authorized appropriations.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

§§ 8601, 8602. Repealed. Pub. L. 107–110, title X, § 1011(5)(B), Jan. 8, 2002, 115 Stat. 1986

Section 8601, Pub. L. 89–10, title XIII, § 13001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876, set forth findings.

Section 8602, Pub. L. 89–10, title XIII, § 13002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876, set forth purpose of subchapter.

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

CODIFICATION

Part A of title XIII of Pub. L. 89–10, comprising this part, was renumbered part K of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1021(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part G (§ 6053 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§ 8621 to 8625. Transferred

CODIFICATION

Section 8621, Pub. L. 89–10, title XIII, § 13101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3877, which authorized grant program for comprehensive regional assistance centers, was renumbered section 1001 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053 of this title, and subsequently repealed.

Section 8622, Pub. L. 89–10, title XIII, § 13102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3878, which set forth requirements of comprehensive regional assistance centers, was renumbered section 1002 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053a of this title, and subsequently repealed.

Section 8623, Pub. L. 89–10, title XIII, § 13103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3879, which related to maintenance of service and application requirements, was renumbered section 1003 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053b of this title, and subsequently repealed.

Section 8624, Pub. L. 89–10, title XIII, § 13104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which related to transition and phase in, was renumbered section 1004 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053c of this title, and subsequently repealed.

Section 8625, Pub. L. 89–10, title XIII, § 13105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which authorized appropriations, was renumbered section 1005 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053d of this title, and subsequently repealed.

PART B—NATIONAL DIFFUSION NETWORK

CODIFICATION

Part B of title XIII of Pub. L. 89–10, comprising this part, was renumbered part L of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1022(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part H (§ 6054 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§ 8651, 8652. Transferred

CODIFICATION

Section 8651, Pub. L. 89–10, title XIII, § 13201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which authorized National Diffusion Network program, was renumbered section 1011 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054 of this title, and subsequently repealed.

Section 8652, Pub. L. 89–10, title XIII, § 13202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882, which authorized appropriations, was renumbered section 1012 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054a of this title, and subsequently repealed.

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

CODIFICATION

Part C of title XIII of Pub. L. 89–10, comprising this part, was renumbered part M of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1023(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part I (§ 6055 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§ 8671 to 8678. Transferred

CODIFICATION

Section 8671, Pub. L. 89–10, title XIII, § 13301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882, which established regional mathematics and science education consortia program, was renumbered section 1021 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055 of this title, and subsequently repealed.

Section 8672, Pub. L. 89–10, title XIII, § 13302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3883, which related to use of funds, was renumbered section 1022 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055a of this title, and subsequently repealed.

Section 8673, Pub. L. 89–10, title XIII, § 13303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3884, which related to application and review, was renumbered section 1023 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055b of this title, and subsequently repealed.

Section 8674, Pub. L. 89–10, title XIII, § 13304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which directed the establishment of regional boards, was renumbered section 1024 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055c of this title, and subsequently repealed.

Section 8675, Pub. L. 89–10, title XIII, § 13305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which authorized payments and described Federal and non-Federal shares, was renumbered section 1025 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055d of this title, and subsequently repealed.

Section 8676, Pub. L. 89–10, title XIII, § 13306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which required evaluation of regional consortia, was renumbered section 1026 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055e of this title, and subsequently repealed.

Section 8677, Pub. L. 89–10, title XIII, § 13307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which defined terms, was renumbered section 1027 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055f of this title, and subsequently repealed.

Section 8678, Pub. L. 89–10, title XIII, § 13308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which authorized appropriations, was renumbered section 1028 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055g of this title, and subsequently repealed.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

CODIFICATION

Part D of title XIII of Pub. L. 89–10, comprising this part, was renumbered part N of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part J (§ 6056 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§ 8701. Transferred

CODIFICATION

Section, Pub. L. 89–10, title XIII, § 13401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which authorized technology-based technical assistance, was renumbered section 1031 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1024(a), (b), Jan. 8, 2002, 115 Stat. 1987, 1988, transferred to section 6056 of this title, and subsequently repealed.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

§§ 8801 to 8803. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8801, 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, defined terms. See section 7801 of this title.

Section 8802, Pub. L. 89–10, title XIV, § 14102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of subchapter. See section 7802 of this title.

Section 8803, Pub. L. 89–10, title XIV, § 14103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of chapter to Bureau of Indian Affairs operated schools. See section 7803 of this title.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§§ 8821 to 8826. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8821, Pub. L. 89–10, title XIV, § 14201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890, related to consolidation of State administrative funds for elementary and secondary education programs. See section 7821 of this title.

Section 8822, Pub. L. 89–10, title XIV, § 14202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3891, related to single local educational agency States. See section 7822 of this title.

Section 8823, Pub. L. 89–10, title XIV, § 14203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892, related to consolidation of funds for local administration. See section 7823 of this title.

Section 8824, Pub. L. 89–10, title XIV, § 14204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892, related to administrative funds studies.

Section 8825, 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, related to consolidated set-aside for Department of the Interior funds. See section 7824 of this title.

Section 8826, Pub. L. 89–10, title XIV, § 14206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894, related to availability of unneeded program funds.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§§ 8851 to 8857. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8851, Pub. L. 89–10, title XIV, § 14301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894, set forth purpose of part. See section 7841 of this title.

Section 8852, 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, related to optional consolidated State plans or applications. See section 7842 of this title.

Section 8853, Pub. L. 89–10, title XIV, § 14303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3895, related to general applicability of State educational agency assurances. See section 7844 of this title.

Section 8854, Pub. L. 89–10, title XIV, § 14304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896, required report on additional coordination.

Section 8855, Pub. L. 89–10, title XIV, § 14305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896, related to consolidated local plans or applications. See section 7845 of this title.

Section 8856, Pub. L. 89–10, title XIV, § 14306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3897, related to other general assurances. See section 7846 of this title.

Section 8857, 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, related to relationship of State and local plans to plans under Goals 2000: Educate America Act.

PART D—WAIVERS

§ 8881. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title XIV, § 14401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3899, related to waivers of statutory and regulatory requirements. See section 7861 of this title.

PART E—UNIFORM PROVISIONS

§§ 8891 to 8904. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8891, Pub. L. 89–10, title XIV, § 14501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3901, related to maintenance of effort. See section 7901 of this title.

Section 8892, Pub. L. 89–10, title XIV, § 14502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3902,

related to prohibition regarding State aid. See section 7902 of this title.

Section 8893, 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, related to participation by private school children and teachers. See section 7881 of this title.

Section 8894, Pub. L. 89–10, title XIV, § 14504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3903, set forth standards for by-pass of requirements. See section 7882 of this title.

Section 8895, Pub. L. 89–10, title XIV, § 14505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904, related to complaint process for participation of private school children. See section 7883 of this title.

Section 8896, Pub. L. 89–10, title XIV, § 14506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904, related to by-pass determination process. See section 7884 of this title.

Section 8897, Pub. L. 89–10, title XIV, § 14507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905, prohibited payments for religious worship or instruction. See section 7885 of this title.

Section 8898, Pub. L. 89–10, title XIV, § 14508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905, related to applicability of chapter to home schools. See section 7886 of this title.

Section 8899, Pub. L. 89–10, title XIV, § 14509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905, related to construction of provisions prohibiting Federal control of nonrecipient nonpublic schools. See section 7886 of this title.

Section 8900, Pub. L. 89–10, title XIV, § 14510, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906, related to school prayer. See section 7904 of this title.

Section 8901, Pub. L. 89–10, title XIV, § 14511, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906, set forth general prohibitions. See section 7906 of this title.

Section 8902, Pub. L. 89–10, title XIV, § 14512, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906, contained prohibition on Federal mandates, direction, and control. See section 7907 of this title.

Section 8903, Pub. L. 89–10, title XIV, § 14513, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906, required report on changes made by the Improving America's Schools Act of 1994.

Section 8904, Pub. L. 89–10, title XIV, § 14514, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907, related to participation in Goals 2000: Educate America Act programs.

PART F—GUN POSSESSION

§§ 8921 to 8923. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8921, Pub. L. 89–10, title XIV, § 14601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907, known as the Gun-Free Schools Act of 1994, related to gun-free requirements. See section 7151 of this title.

Section 8922, Pub. L. 89–10, title XIV, § 14602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908, related to policy regarding criminal justice system referral. See section 7151 of this title.

Section 8923, Pub. L. 89–10, title XIV, § 14603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908, related to data and policy dissemination under the Individuals with Disabilities Education Act.

PART G—EVALUATIONS

§ 8941. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, 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, related to evaluations. See section 7941 of this title.

PART H—SENSE OF CONGRESS

§§ 8961, 8962. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8961, Pub. L. 89–10, title XIV, § 14801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3911, expressed sense of Congress to increase total share of Federal spending on education.

Section 8962, Pub. L. 89–10, title XIV, § 14802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3912, expressed sense of Congress regarding purchase of American-made equipment and products.

CHAPTER 71—NATIONAL EDUCATION STATISTICS

Sec.
9001 to 9012. Repealed or Transferred.

§§ 9001 to 9009. Repealed. Pub. L. 107–279, title IV, § 403(1), Nov. 5, 2002, 116 Stat. 1985

Section 9001, Pub. L. 103–382, title IV, § 402, Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, § 102(a)(6)(L), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 107–110, title X, § 1076(r), Jan. 8, 2002, 115 Stat. 2092, set forth findings and purpose and defined terms.

Section 9002, Pub. L. 103–382, title IV, § 403, Oct. 20, 1994, 108 Stat. 4030, established National Center for Education Statistics, to be headed by Commissioner of Education Statistics. See sections 9541 and 9542 of this title.

Section 9003, Pub. L. 103–382, title IV, § 404, Oct. 20, 1994, 108 Stat. 4031, set forth duties of Center. See section 9543 of this title.

Section 9004, Pub. L. 103–382, title IV, § 405, Oct. 20, 1994, 108 Stat. 4032, related to performance of duties. See section 9544 of this title.

Section 9005, Pub. L. 103–382, title IV, § 406, Oct. 20, 1994, 108 Stat. 4033, related to reports. See section 9545 of this title.

Section 9006, Pub. L. 103–382, title IV, § 407, Oct. 20, 1994, 108 Stat. 4033, established Advisory Council on Education Statistics.

Section 9007, Pub. L. 103–382, title IV, § 408, Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, § 508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, § 401(a), Nov. 5, 2002, 116 Stat. 1982, related to confidentiality of persons in collection, reporting, and publication of data. See section 9573 of this title.

Section 9008, Pub. L. 103–382, title IV, § 409, Oct. 20, 1994, 108 Stat. 4035, related to dissemination of statistical records and making of statistical compilations and surveys. See section 9546 of this title.

Section 9009, Pub. L. 103–382, title IV, § 410, Oct. 20, 1994, 108 Stat. 4036, authorized establishment of national cooperative education statistics systems. See section 9547 of this title.

SHORT TITLE

Pub. L. 103–382, title IV, § 401, Oct. 20, 1994, 108 Stat. 4029, which provided that title IV of Pub. L. 103–382, enacting this chapter, could be cited as the ''National Education Statistics Act of 1994'', was repealed by Pub. L. 107–279, title IV, § 403(1), Nov. 5, 2002, 116 Stat. 1985.

§§ 9010, 9011. Transferred

CODIFICATION

Section 9010, Pub. L. 103–382, title IV, § 411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107–110, title VI, § 602(a), Jan. 8, 2002, 115 Stat. 1898; Pub. L. 107–279, title IV, § 401(d)(1)–(7), Nov. 5, 2002, 116 Stat. 1984, was renumbered Pub. L. 107–279, title III, § 303, by Pub. L. 107–279, title IV, § 401(d)(8), Nov. 5, 2002, 116 Stat. 1984, and transferred to section 9622 of this title.