

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Title I of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub.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 state¹ 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 pro-

viding 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 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

¹ So in original. Probably should be capitalized.

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 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 AMENDMENTS

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

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

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

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105-278, §1, Oct. 22, 1998, 112 Stat. 2682, provided that: “This Act [enacting sections 8065a to 8065d of this title and amending sections 7331, 7351, 8061 to 8065, 8066, 8067, and 8801 of this title] may be cited as the ‘Charter School Expansion Act of 1998’.”

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

SHORT TITLE OF 1994 AMENDMENTS

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

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

SHORT TITLE OF 1992 AMENDMENT

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

SHORT TITLE OF 1991 AMENDMENT

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

SHORT TITLE OF 1990 AMENDMENT

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

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-226, §1, Dec. 12, 1989, 103 Stat. 1928, provided that: “This Act [see Tables for classification]

may be cited as the ‘Drug-Free Schools and Communities Act Amendments of 1989’.”

SHORT TITLE OF 1988 AMENDMENTS

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

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

SHORT TITLE OF 1984 AMENDMENT

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

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

SHORT TITLE OF 1978 AMENDMENT

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

SHORT TITLE OF 1977 AMENDMENT

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

SHORT TITLE OF 1974 AMENDMENT

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

SHORT TITLE OF 1970 AMENDMENT

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

SHORT TITLE OF 1968 AMENDMENT

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

SHORT TITLE OF 1966 AMENDMENT

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

SHORT TITLE

Section 1 of Pub. L. 89-10, as added by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, 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 develop-

ment, 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 appro-

riated 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 2¹ 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 allocate 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

¹ So in original. Probably should be "subpart 2 of part A of this subchapter".

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 de-

veloped, 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 addi-

tional 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 assessments 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, pro-

vided 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 non-disabled 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 section 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 coordi-

nate 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 subsection (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”.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 academic achievement 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 extent 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 class-

rooms 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 A¹ 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 in-

¹ So in original. Probably should be followed by "of subchapter III of this chapter".

volved 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.

(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 programs 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 para-

graph (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 assessments 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 paragraphs¹ (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 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

¹ So in original. Probably should be "paragraph".

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 reporting 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 in² 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.

(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).

² So in original. Probably should be followed by “section”.

(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 consecu-

tive 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:

(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.

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

(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 with-

out 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 of⁴ 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 there-

⁴So in original. Probably should be “of the”.

after, submit to the Secretary of⁴ 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 of⁴ 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 of⁴ Interior shall, in consultation with the Secretary if the Secretary of⁴ 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 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 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 of⁴ 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 des-

ignate 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 in-

volvement 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 stu-

dent 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 aca-

demic 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 para-professionals

(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

¹ See References in Text note below.

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 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 section¹ 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.

¹ So in original. Probably should be "sections".

(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

(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 than 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;

(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;

¹ So in original. The opening quotation marks probably should not appear.

(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 cal-

culate 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) Reallocation

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 reallocate 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.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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 read-

ing 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 Teach-

ers, 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 pro-

gram 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 access 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.)

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education

and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 eligible 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 facili-

ties 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 post-secondary 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”.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 Improve-

ment 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 section¹ (c) on 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

¹ So in original. Probably should be "subsection".

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.

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 economi-

cally 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 allot-

¹ So in original. No subsec. (b) has been enacted.

ments 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 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.)

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 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 benefits 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 de-

gree, 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 taking¹ advanced placement courses and tests in that subject disaggregated by race, ethnicity, 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.

¹ So in original.

(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 inter-agency 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 drop-

out 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 mem-

bers 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.)

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6575. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Fed-

eral 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.