

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Title I of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub.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 provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.

(Pub. L. 89-10, title I, §1001, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1439; amended Pub. L. 114-95, title I, §1001, Dec. 10, 2015, 129 Stat. 1814.)

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.

AMENDMENTS

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section set forth purpose of subchapter and included provisions relating to how this purpose could be accomplished.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-95, §5, Dec. 10, 2015, 129 Stat. 1806, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act [see Tables for classification], or an amendment made by this Act, this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act [Dec. 10, 2015].

“(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, the amendments made by this Act shall be effective beginning on July 1, 2016, except as otherwise provided in such amendments.

“(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary of Education on a competitive basis (and are not programs described in subsection (b)) under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the amendments made by this Act with respect to appropriations for use under such programs shall be effective beginning on October 1, 2016, except as otherwise provided in such amendments.

“(d) IMPACT AID.—With respect to title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by this Act, the amendments made by this Act shall take effect with respect

to appropriations for use under such title beginning fiscal year 2017, except as otherwise provided in such amendments.

“(e) TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

“(1) EFFECTIVE DATES FOR SECTION 1111 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Notwithstanding any other provision of this Act, or the amendments made by this Act, and subject to paragraph (2) of this subsection—

“(A) section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)), as in effect on the day before the date of enactment of this Act, shall be effective through the close of August 1, 2016;

“(B) subsections (c) and (d) of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, shall take effect beginning with school year 2017-2018; and

“(C) section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)), as amended by this Act, and any other provision of section 1111 of such Act (20 U.S.C. 6311), as amended by this Act, which is not described in subparagraph (B) of this paragraph, shall take effect in a manner consistent with subsection (a).

“(2) SPECIAL RULE.—

“(A) IN GENERAL.—Notwithstanding any other provision of this Act (including subsection (b) and paragraph (1)), any school or local educational agency described in subparagraph (B) shall continue to implement interventions applicable to such school or local educational agency under clause (i) or (ii) of subparagraph (B) until—

“(i) the State plan for the State in which the school or agency is located under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, is approved under such section (20 U.S.C. 6311); or

“(ii) subsections (c) and (d) of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), as amended by this Act, take effect in accordance with paragraph (1)(B), whichever occurs first.

“(B) CERTAIN SCHOOLS AND LOCAL EDUCATIONAL AGENCIES.—A school or local educational agency shall be subject to the requirements of subparagraph (A), if such school or local educational agency has been identified by the State in which the school or local educational agency is located—

“(i) as in need of improvement, corrective action, or restructuring under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), as in effect on the day before the date of enactment of this Act; or

“(ii) as a priority or focus school under a waiver granted by the Secretary of Education under section 9401 [now 8401] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7861), as in effect on the day before the date of enactment of this Act.”

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 meant title VIII (now VII) of Pub. L.

89–10, 20 U.S.C. 7701 et seq.], this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under that title for fiscal year 2002.”

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 115–64, §1, Sept. 29, 2017, 131 Stat. 1187, provided that: “This Act [amending section 7881 of this title] may be cited as the ‘Hurricanes Harvey, Irma, and Maria Education Relief Act of 2017.’”

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–95, §1, Dec. 10, 2015, 129 Stat. 1802, provided that: “This Act [see Tables for classification] may be cited as the ‘Every Student Succeeds Act.’”

SHORT TITLE OF 2013 AMENDMENT

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

SHORT TITLE OF 2002 AMENDMENT

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

SHORT TITLE OF 2000 AMENDMENT

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

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

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

SHORT TITLE OF 1998 AMENDMENT

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

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

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, §1, Oct. 20, 1994, 108 Stat. 3518, provided that: “This Act [see Tables for classification] may be cited as the ‘Improving America’s Schools Act of 1994.’”

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

SHORT TITLE OF 1992 AMENDMENT

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

SHORT TITLE OF 1991 AMENDMENT

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

SHORT TITLE OF 1990 AMENDMENT

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

SHORT TITLE OF 1989 AMENDMENT

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

SHORT TITLE OF 1988 AMENDMENT

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

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

SHORT TITLE OF 1984 AMENDMENT

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

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

SHORT TITLE OF 1978 AMENDMENT

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

SHORT TITLE OF 1977 AMENDMENT

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

SHORT TITLE OF 1974 AMENDMENT

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

SHORT TITLE OF 1970 AMENDMENT

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

SHORT TITLE OF 1968 AMENDMENT

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

SHORT TITLE OF 1966 AMENDMENT

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

SHORT TITLE

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

Pub. L. 107–110, §6(1), Jan. 8, 2002, 115 Stat. 1427, provided that: “This Act [enacting this chapter] may be cited as the ‘Elementary and Secondary Education Act of 1965.’”

Pub. L. 89–10, title X, §10971, as added by Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, which provided that subpart 2 (§§10971–10978) of part J of title X of Pub. L. 89–10, enacting subpart 2 of part J of former subchapter X of this chapter, could be cited as the “Rural Education Achievement Program”, was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

Pub. L. 89–10, title X, §10999A, as added by Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, which provided that part L (§§10999A–10999L) of title X of Pub. L. 89–10, enacting part L of former subchapter X of this chapter, could be cited as the “Physical Education for Progress Act”, was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

CONTINUATION OF AWARDS

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

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

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

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

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

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

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

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

TRANSITION PROVISIONS

Pub. L. 114–95, §4, Dec. 10, 2015, 129 Stat. 1805, provided that:

“(a) FUNDING AUTHORITY.—

“(1) MULTI-YEAR AWARDS.—

“(A) PROGRAMS NO LONGER AUTHORIZED.—Except as otherwise provided in this Act [see Tables for classification] or the amendments made by this Act, the recipient of a multiyear award under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act [Dec. 10, 2015], under a program that is not authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, and—

“(i) that is not substantively similar to a program authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award, except that no additional funds for such program may be awarded after September 30, 2016; and

“(ii) that is substantively similar to a program authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award.

“(B) AUTHORIZED PROGRAMS.—Except as otherwise provided in this Act, or the amendments made by this Act, the recipient of a multiyear award under a program that was authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act, and that is authorized under such Act (20 U.S.C. 6301 et seq.), as amended by this Act, shall continue to receive funds in accordance with the terms of such prior award.

“(2) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under a program described in paragraph (1)(A)(ii) or (1)(B) may use funds awarded to the recipient under such program, to carry out necessary and reasonable planning and transition activities in order to ensure the recipient’s compliance with the amendments to such program made by this Act.

“(b) ORDERLY TRANSITION.—Subject to subsection (a)(1)(A)(i), the Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, from programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act.

“(c) TERMINATION OF CERTAIN WAIVERS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to section 5(e)(2) [set out as an Effective Date of 2015 Amendment note above], a waiver described in paragraph (2) shall be null and void and have no legal effect on or after August 1, 2016.

“(2) WAIVERS.—A waiver shall be subject to paragraph (1) if the waiver was granted by the Secretary of Education to a State or consortium of local educational agencies under the program first introduced in a letter to chief State school officers dated September 23, 2011, and authorized under section 9401 [now 8401] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7861), as in effect on the day before the date of enactment of this Act.”

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 im-

prove the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. *Compliance Monitoring System.* Consistent with the implementation of the School Improvement Fund, the Secretary shall strengthen the Department’s monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106–113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA [former 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

There are authorized to be appropriated to carry out the activities described in part A—

- (1) \$15,012,317,605 for fiscal year 2017;
- (2) \$15,457,459,042 for fiscal year 2018;

- (3) \$15,897,371,442 for fiscal year 2019; and
- (4) \$16,182,344,591 for fiscal year 2020.

(b) State assessments

There are authorized to be appropriated to carry out the activities described in part B, \$378,000,000 for each of fiscal years 2017 through 2020.

(c) Education of migratory children

There are authorized to be appropriated to carry out the activities described in part C, \$374,751,000 for each of fiscal years 2017 through 2020.

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

There are authorized to be appropriated to carry out the activities described in part D, \$47,614,000 for each of fiscal years 2017 through 2020.

(e) Federal activities

For the purpose of carrying out evaluation activities related to subchapter I under section 7981 of this title, there are authorized to be appropriated \$710,000 for each of fiscal years 2017 through 2020.

(f) Sense of Congress regarding adjustments to authorizations of appropriations provided in this chapter for future budget agreements

It is the sense of Congress that if legislation is enacted that revises the limits on discretionary spending established under section 901(c) of title 2, the levels of appropriations authorized throughout this chapter should be adjusted in a manner that is consistent with the adjustments in nonsecurity category funding provided for under the revised limits on discretionary spending.

(Pub. L. 89–10, title I, §1002, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1440; amended Pub. L. 114–95, title I, §1002, Dec. 10, 2015, 129 Stat. 1814.)

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.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (i) relating to authorization of appropriations for fiscal years 2002 through 2007.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6303. School improvement

(a) State reservations

To carry out subsection (b) and the State educational agency’s statewide system of technical

assistance and support for local educational agencies, each State shall reserve the greater of—

- (1) 7 percent of the amount the State receives under subpart 2 of part A; or
- (2) the sum of the amount the State—

(A) reserved for fiscal year 2016 under this subsection, as in effect on the day before December 10, 2015; and

(B) received for fiscal year 2016 under subsection (g), as in effect on the day before December 10, 2015.

(b) Uses

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

(1)(A) shall allocate not less than 95 percent of that amount to make grants to local educational agencies on a formula or competitive basis, to serve schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title; or

(B) 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, educational service agencies, or nonprofit or for-profit external providers with expertise in using evidence-based strategies to improve student achievement, instruction, and schools; and

(2) shall use the funds not allocated to local educational agencies under paragraph (1) to carry out this section, which shall include—

(A) establishing the method, consistent with paragraph (1)(A), the State will use to allocate funds to local educational agencies under such paragraph, including ensuring—

(i) the local educational agencies receiving an allotment under such paragraph represent the geographic diversity of the State; and

(ii) that allotments are of sufficient size to enable a local educational agency to effectively implement selected strategies;

(B) monitoring and evaluating the use of funds by local educational agencies receiving an allotment under such paragraph; and

(C) as appropriate, reducing barriers and providing operational flexibility for schools in the implementation of comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title.

(c) Duration

The State educational agency shall award each subgrant under subsection (b) for a period of not more than 4 years, which may include a planning year.

(d) Rule of construction

Nothing in this section shall be construed as prohibiting a State from allocating subgrants under this section to a statewide school district, consortium of local educational agencies, or an educational service agency that serves schools implementing comprehensive support and improvement activities or targeted support and improvement activities, if such entities are le-

gally constituted or recognized as local educational agencies in the State.

(e) Application

To receive an allotment under subsection (b)(1), a local educational agency shall submit an application to the State educational agency at such time, in such form, and including such information as the State educational agency may require. Each application shall include, at a minimum—

(1) a description of how the local educational agency will carry out its responsibilities under section 6311(d) of this title for schools receiving funds under this section, including how the local educational agency will—

(A) develop comprehensive support and improvement plans under section 6311(d)(1) of this title for schools receiving funds under this section;

(B) support schools developing or implementing targeted support and improvement plans under section 6311(d)(2) of this title, if funds received under this section are used for such purpose;

(C) monitor schools receiving funds under this section, including how the local educational agency will carry out its responsibilities under clauses (iv) and (v) of section 6311(d)(2)(B) of this title if funds received under this section are used to support schools implementing targeted support and improvement plans;

(D) use a rigorous review process to recruit, screen, select, and evaluate any external partners with whom the local educational agency will partner;

(E) align other Federal, State, and local resources to carry out the activities supported with funds received under subsection (b)(1); and

(F) as appropriate, modify practices and policies to provide operational flexibility that enables full and effective implementation of the plans described in paragraphs (1) and (2) of section 6311(d) of this title; and

(2) an assurance that each school the local educational agency proposes to serve will receive all of the State and local funds it would have received in the absence of funds received under this section.

(f) 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 high numbers, or a high percentage of, elementary schools and secondary schools implementing plans under paragraphs (1) and (2) of section 6311(d) of this title;

(2) demonstrate the greatest need for such funds, as determined by the State; and

(3) demonstrate the strongest commitment to using funds under this section to enable the lowest-performing schools to improve student achievement and student outcomes.

(g) Unused funds

If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds re-

served to carry out subsection (b) 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; or
- (2) section 6338(c) of this title.

(h) Special rule

Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) for fiscal year 2018 and each subsequent fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2 of part A below the amount received by such local educational agency under such subpart for the preceding fiscal year.

(i) Reporting

The State shall include in the report described in section 6311(h)(1) of this title a list of all the local educational agencies and schools that received funds under this section, including the amount of funds each school received and the types of strategies implemented in each school with such funds.

(Pub. L. 89-10, title I, §1003, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1442; amended Pub. L. 114-95, title I, §1003, Dec. 10, 2015, 129 Stat. 1815.)

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.

AMENDMENTS

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section consisted of subssecs. (a) to (g) relating to State reservations of amounts, uses of amounts, priority in allocating funds, allocation of unused funds, special rule limiting decrease of amounts received under subpart 2 of part A, reporting of list of recipient schools and percentage of students from families with incomes below poverty line, and grants program for assistance for local school improvement.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6303a. Whole-school reform strategy

Funds available for school improvement grants for fiscal year 2014 and thereafter may be used by a local educational agency to implement a whole-school reform strategy for a school using an evidence-based strategy that ensures whole-school reform is undertaken in partnership with a strategy developer offering a whole-school reform program that is based on at least

a moderate level of evidence that the program will have a statistically significant effect on student outcomes, including at least one well-designed and well-implemented experimental or quasi-experimental study.

(Pub. L. 114-113, div. H, title III, Dec. 18, 2015, 129 Stat. 2627.)

CODIFICATION

Section was enacted as part of the Department of Education Appropriations Act, 2016, and also as part of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2016, and the Consolidated Appropriations Act, 2016, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-235, div. G, title III, Dec. 16, 2014, 128 Stat. 2493.

§ 6303b. Direct student services

(a) State reservation

(1) In general

(A) States

Each State educational agency, after meaningful consultation with geographically diverse local educational agencies described in subparagraph (B), may reserve not more than 3 percent of the amount the State educational agency receives under subpart 2 of part A for each fiscal year to carry out this section.

(B) Consultation

A State educational agency shall consult under subparagraph (A) with local educational agencies that include—

- (i) suburban, rural, and urban local educational agencies;
- (ii) local educational agencies serving a high percentage of schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; and
- (iii) local educational agencies serving a high percentage of schools implementing targeted support and improvement plans under section 6311(d)(2) of this title.

(2) Program administration

Of the funds reserved under paragraph (1)(A), the State educational agency may use not more than 1 percent to administer the program described in this section.

(b) Awards

(1) In general

From the amount reserved under subsection (a) by a State educational agency, the State educational agency shall award grants to geographically diverse local educational agencies described in subsection (a)(1)(B)(i).

(2) Priority

In making such awards, the State educational agency shall prioritize awards to local educational agencies serving the highest percentage of schools, as compared to other local educational agencies in the State—

(A) identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; or

(B) implementing targeted support and improvement plans under section 6311(d)(2) of this title.

(c) Local use of funds

A local educational agency receiving an award under this section—

(1) may use not more than 1 percent of its award for outreach and communication to parents about available direct student services described in paragraph (3) in the local educational agency and State;

(2) may use not more than 2 percent of its award for administrative costs related to such direct student services;

(3) shall use the remainder of the award to pay the costs associated with one or more of the following direct student services—

(A) enrollment and participation in academic courses not otherwise available at a student's school, including—

(i) advanced courses; and

(ii) career and technical education coursework that—

(I) is aligned with the challenging State academic standards; and

(II) leads to industry-recognized credentials that meet the quality criteria established by the State under section 3153(a) of title 29;

(B) credit recovery and academic acceleration courses that lead to a regular high school diploma;

(C) activities that assist students in successfully completing postsecondary level instruction and examinations that are accepted for credit at institutions of higher education (including Advanced Placement and International Baccalaureate courses), which may include reimbursing low-income students to cover part or all of the costs of fees for such examinations;

(D) components of a personalized learning approach, which may include high-quality academic tutoring; and

(E) in the case of a local educational agency that does not reserve funds under section 6311(d)(1)(D)(v) of this title, transportation to allow a student enrolled in a school identified for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title to transfer to another public school (which may include a charter school) that has not been identified by the State under such section; and

(4) in paying the costs associated with the direct student services described in paragraph (3), shall—

(A) first, pay such costs for students who are enrolled in schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title;

(B) second, pay such costs for low-achieving students who are enrolled in schools implementing targeted support and improvement plans under section 6311(d)(2) of this title; and

(C) with any remaining funds, pay such costs for other low-achieving students served by the local educational agency.

(d) Application

A local educational agency desiring to receive an award under subsection (b) shall submit an application to the State educational agency at such time and in such manner as the State educational agency shall require. At a minimum, each application shall describe how the local educational agency will—

(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child's education;

(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

(3) in the case of a local educational agency offering public school choice under this section, ensure sufficient availability of seats in the public schools the local educational agency will make available for public school choice options;

(4) prioritize services to students who are lowest-achieving;

(5) select providers of direct student services, which may include one or more of—

(A) the local educational agency or other local educational agencies;

(B) community colleges or other institutions of higher education;

(C) non-public entities;

(D) community-based organizations; or

(E) in the case of high-quality academic tutoring, a variety of providers of such tutoring that are selected and approved by the State and appear on the State's list of such providers required under subsection (e)(2);

(6) monitor the provision of direct student services; and

(7) publicly report the results of direct student service providers in improving relevant student outcomes in a manner that is accessible to parents.

(e) Providers and schools

A State educational agency that reserves an amount under subsection (a) shall—

(1) ensure that each local educational agency that receives an award under this section and intends to provide public school choice under subsection (c)(3)(E) can provide a sufficient number of options to provide a meaningful choice for parents;

(2) compile and maintain an updated list of State-approved high-quality academic tutoring providers that—

(A) is developed using a fair negotiation and rigorous selection and approval process;

(B) provides parents with meaningful choices;

(C) offers a range of tutoring models, including online and on campus; and

(D) includes only providers that—

(i) have a demonstrated record of success in increasing students' academic achievement;

(ii) comply with all applicable Federal, State, and local health, safety, and civil rights laws; and

(iii) provide instruction and content that is secular, neutral, and non-ideological;

(3) ensure that each local educational agency receiving an award is able to provide an adequate number of high-quality academic tutoring options to ensure parents have a meaningful choice of services;

(4) develop and implement procedures for monitoring the quality of services provided by direct student service providers; and

(5) establish and implement clear criteria describing the course of action for direct student service providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval under paragraph (2).

(Pub. L. 89-10, title I, §1003A, as added Pub. L. 114-95, title I, §1004, Dec. 10, 2015, 129 Stat. 1817.)

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 6304. State administration

(a) In general

Except as provided in subsection (b), 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) 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) Filing for grants

(1) In general

For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is—

(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of edu-

cation (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents; and

(B) is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Rehabilitation Act of 1973 (20 U.S.C. 701 et seq.),¹ the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.),² the Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.), the Education³ Technical Assistance Act of 2002 (20 U.S.C. 9601 et seq.), the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621 et seq.), the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), and the Adult Education and Family Literacy Act (29 U.S.C. 3271 et seq.).

(2) Limitation

Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section.

(3) Consolidated plan

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

(4) Peer review and Secretarial approval

(A) In general

The Secretary shall—

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

(ii) establish multidisciplinary peer-review teams and appoint members of such teams—

(I) who are representative of—

(aa) parents, teachers, principals, other school leaders, specialized instructional support personnel, State educational agencies, local educational agencies, and the community (including the business community); and

(bb) researchers who are familiar with—

(AA) the implementation of academic standards, assessments, or accountability systems; and

(BB) how to meet the needs of disadvantaged students, children with disabilities, and English learners, the needs of low-performing schools, and other educational needs of students;

(II) that include, to the extent practicable, majority representation of indi-

¹ So in original. Probably should be “(29 U.S.C. 701 et seq.).”.

² So in original. Probably should be “9857 et seq.).”.

³ So in original. Probably should be “Educational”.

viduals who, in the most recent 2 years, have had practical experience in the classroom, school administration, or State or local government (such as direct employees of a school, local educational agency, or State educational agency); and

(III) who represent a regionally diverse cross-section of States;

(iii) make available to the public, including by such means as posting to the Department's website, the list of peer reviewers who have reviewed State plans under this section;

(iv) ensure that the peer-review teams consist of varied individuals so that the same peer reviewers are not reviewing all of the State plans;

(v) approve a State plan not later than 120 days after its submission, unless the Secretary meets the requirements of clause (vi);

(vi) have the authority to disapprove a State plan only if—

(I) the Secretary—

(aa) determines how the State plan fails to meet the requirements of this section;

(bb) immediately provides to the State, in writing, notice of such determination, and the supporting information and rationale to substantiate such determination;

(cc) offers the State an opportunity to revise and resubmit its State plan, and provides the State—

(AA) technical assistance to assist the State in meeting the requirements of this section;

(BB) in writing, all peer-review comments, suggestions, recommendations, or concerns relating to its State plan; and

(CC) a hearing, unless the State declines the opportunity for such hearing; and

(II) the State—

(aa) does not revise and resubmit its State plan; or

(bb) in a case in which a State revises and resubmits its State plan after a hearing is conducted under subclause (I)(cc)(CC), or after the State has declined the opportunity for such a hearing, the Secretary determines that such revised State plan does not meet the requirements of this section.

(B) Purpose of peer review

The peer-review process shall be designed to—

(i) maximize collaboration with each State;

(ii) promote effective implementation of the challenging State academic standards through State and local innovation; and

(iii) provide transparent, timely, and objective feedback to States designed to strengthen the technical and overall quality of the State plans.

(C) Standard and nature of review

Peer reviewers shall conduct an objective review of State plans in their totality and out of respect for State and local judgments, with the goal of supporting State- and local-led innovation and providing objective feedback on the technical and overall quality of a State plan.

(D) Prohibition

Neither the Secretary nor the political appointees of the Department, may attempt to participate in, or influence, the peer-review process.

(5) Public review

All written communications, feedback, and notifications under this subsection shall be conducted in a manner that is transparent and immediately made available to the public on the Department's website, including—

(A) plans submitted or resubmitted by a State;

(B) peer-review guidance, notes, and comments and the names of the peer reviewers (once the peer reviewers have completed their work);

(C) State plan determinations by the Secretary, including approvals or disapprovals; and

(D) notices and transcripts of hearings under this section.

(6) Duration of the plan

(A) In general

Each State plan shall—

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

(ii) 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.

(B) Additional information

(i) In general

If a State makes significant changes to its plan at any time, such as the adoption of new challenging State academic standards or new academic assessments under subsection (b), or changes to its accountability system under subsection (c), such information shall be submitted to the Secretary in the form of revisions or amendments to the State plan.

(ii) Review of revised plans

The Secretary shall review the information submitted under clause (i) and approve changes to the State plan, or disapprove such changes in accordance with paragraph (4)(A)(vi), within 90 days, without undertaking the peer-review process under such paragraph.

(iii) Special rule for standards

If a State makes changes to its challenging State academic standards, the requirements of subsection (b)(1), including the requirement that such standards need not be submitted to the Secretary pursuant to subsection (b)(1)(A), shall still apply.

(7) Failure to meet requirements

If a State fails to meet any of the requirements of this section, the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

(8) Public comment

Each State shall make the State plan publicly available for public comment for a period of not less than 30 days, by electronic means and in an easily accessible format, prior to submission to the Secretary for approval under this subsection. The State, in the plan it files under this subsection, shall provide an assurance that public comments were taken into account in the development of the State plan.

(b) Challenging academic standards and academic assessments**(1) Challenging State academic standards****(A) In general**

Each State, in the plan it files under subsection (a), shall provide an assurance that the State has adopted challenging academic content standards and aligned academic achievement standards (referred to in this chapter as “challenging State academic standards”), which achievement standards shall include not less than 3 levels of achievement, that will be used by the State, its local educational agencies, and its schools to carry out this part. A State shall not be required to submit such challenging State academic standards to the Secretary.

(B) Same standards

Except as provided in subparagraph (E), the standards required by subparagraph (A) shall—

- (i) apply to all public schools and public school students in the State; and
- (ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State.

(C) Subjects

The State shall have such academic standards for mathematics, reading or language arts, and science, and may have such standards for any other subject determined by the State.

(D) Alignment**(i) In general**

Each State shall demonstrate that the challenging State academic standards are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards.

(ii) Rule of construction

Nothing in this chapter shall be construed to authorize public institutions of higher education to determine the specific challenging State academic standards required under this paragraph.

(E) Alternate academic achievement standards for students with the most significant cognitive disabilities**(i) In general**

The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards—

(I) are aligned with the challenging State academic content standards under subparagraph (A);

(II) promote access to the general education curriculum, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(III) reflect professional judgment as to the highest possible standards achievable by such students;

(IV) are designated in the individualized education program developed under section 614(d)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(3)) for each such student as the academic achievement standards that will be used for the student; and

(V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of Public Law 93-112 [29 U.S.C. 701 et seq.], as in effect on July 22, 2014.

(ii) Prohibition on any other alternate or modified academic achievement standards

A State shall not develop, or implement for use under this part, any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i).

(F) English language proficiency standards

Each State plan shall demonstrate that the State has adopted English language proficiency standards that—

(i) are derived from the 4 recognized domains of speaking, listening, reading, and writing;

(ii) address the different proficiency levels of English learners; and

(iii) are aligned with the challenging State academic standards.

(G) Prohibitions**(i) Standards review or approval**

A State shall not be required to submit any standards developed under this subsection to the Secretary for review or approval.

(ii) Federal control

The Secretary shall not have the authority to mandate, direct, control, coerce, or exercise any direction or supervision over any of the challenging State academic standards adopted or implemented by a State.

(H) Existing standards

Nothing in this part shall prohibit a State from revising, consistent with this section, any standards adopted under this part before or after December 10, 2015.

(2) 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 student academic assessments in mathematics, reading or language arts, and science. The State retains the right to implement such assessments in any other subject chosen by the State.

(B) Requirements

The assessments under subparagraph (A) shall—

(i) except as provided in subparagraph (D), be—

(I) the same academic assessments used to measure the achievement of all public elementary school and secondary school students in the State; and

(II) administered to all public elementary school and secondary school students in the State;

(ii) be aligned with the challenging State academic standards, and provide coherent and timely information about student attainment of such standards and whether the student is performing at the student's grade level;

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

(iv) be of adequate technical quality for each purpose required under this chapter and consistent with the requirements of this section, the evidence of which shall be made public, including on the website of the State educational agency;

(v)(I) in the case of mathematics and reading or language arts, be administered—

(aa) in each of grades 3 through 8; and

(bb) at least once in grades 9 through 12;

(II) in the case of science, be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12; and

(III) in the case of any other subject chosen by the State, be administered at the discretion of the State;

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

may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks;

(vii) provide for—

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

(II) the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards described in paragraph (1)(E); and

(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate 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 subparagraph (G);

(viii) at the State's discretion—

(I) be administered through a single summative assessment; or

(II) be administered through multiple statewide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement or growth;

(ix) notwithstanding clause (vii)(III), provide for assessments (using tests in English) of reading or language arts of any student who has attended school in the United States (not including the Commonwealth of Puerto Rico) for 3 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 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

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

(xi) enable results to be disaggregated within each State, local educational agency, and school by—

- (I) each major racial and ethnic group;
- (II) economically disadvantaged students as compared to students who are not economically disadvantaged;
- (III) children with disabilities as compared to children without disabilities;
- (IV) English proficiency status;
- (V) gender; and
- (VI) migrant status,

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

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

(xiii) be developed, to the extent practicable, using the principles of universal design for learning.

(C) Exception for advanced mathematics in middle school

A State may exempt any 8th grade student from the assessment in mathematics described in subparagraph (B)(v)(I)(aa) if—

(i) such student takes the end-of-course assessment the State typically administers to meet the requirements of subparagraph (B)(v)(I)(bb) in mathematics;

(ii) such student's achievement on such end-of-course assessment is used for purposes of subsection (c)(4)(B)(i), in lieu of such student's achievement on the mathematics assessment required under subparagraph (B)(v)(I)(aa), and such student is counted as participating in the assessment for purposes of subsection (c)(4)(B)(vi);⁴ and

(iii) in high school, such student takes a mathematics assessment pursuant to subparagraph (B)(v)(I)(bb) that—

- (I) is any end-of-course assessment or other assessment that is more advanced

than the assessment taken by such student under clause (i) of this subparagraph; and

(II) shall be used to measure such student's academic achievement for purposes of subsection (c)(4)(B)(i).

(D) Alternate assessments for students with the most significant cognitive disabilities

(i) Alternate assessments aligned with alternate academic achievement standards

A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1)(E) for students with the most significant cognitive disabilities, if the State—

(I) consistent with clause (ii), ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;

(II) ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)))—

(aa) that their child's academic achievement will be measured based on such alternate standards; and

(bb) how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;

(III) promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;

(IV) describes in the State plan the steps the State has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments;

(V) describes in the State plan that general and special education teachers, and other appropriate staff—

(aa) know how to administer the alternate assessments; and

(bb) make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph;

(VI) develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities—

(aa) participating in academic instruction and assessments for the grade level in which the student is enrolled; and

(bb) who are tested based on challenging State academic standards for

⁴So in original. No subsec. (c)(4)(B)(vi) has been enacted.

the grade level in which the student is enrolled; and

(VII) does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

(ii) Special rules

(I) Responsibility under IDEA

Subject to the authority and requirements for the individualized education program team for a child with a disability under section 614(d)(1)(A)(i)(VI)(bb) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VI)(bb)), such team, consistent with the guidelines established by the State and required under section 612(a)(16)(C) of such Act (20 U.S.C. 1412(c)(16)(C))⁵ and clause (i)(II) of this subparagraph, shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned with the alternate academic achievement standards.

(II) Prohibition on local cap

Nothing in this subparagraph shall be construed to permit the Secretary or a State educational agency to impose on any local educational agency a cap on the percentage of students administered an alternate assessment under this subparagraph, except that a local educational agency exceeding the cap applied to the State under clause (i)(I) shall submit information to the State educational agency justifying the need to exceed such cap.

(III) State support

A State shall provide appropriate oversight, as determined by the State, of any local educational agency that is required to submit information to the State under subclause (II).

(IV) Waiver authority

This subparagraph shall be subject to the waiver authority under section 7861 of this title.

(E) 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 challenging State academic standards, and academic assessments aligned with such 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—

(i) adopting academic standards and academic assessments that meet the require-

ments of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(ii) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic 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.

(F) Language assessments

(i) In general

Each State plan shall identify the languages other than English that are present to a significant extent in the participating student population of the State and indicate the languages for which annual student academic assessments are not available and are needed.

(ii) Secretarial assistance

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.

(G) Assessments of English language proficiency

(i) In general

Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.

(ii) Alignment

The assessments described in clause (i) shall be aligned with the State's English language proficiency standards described in paragraph (1)(F).

(H) Locally-selected assessment

(i) In general

Nothing in this paragraph shall be construed to prohibit a local educational agency from administering a locally-selected assessment in lieu of the State-designed academic assessment under subclause (I)(bb) and subclause (II)(cc) of subparagraph (B)(v), if the local educational agency selects a nationally-recognized high school academic assessment that has been approved for use by the State as described in clause (iii) or (iv) of this subparagraph.

(ii) State technical criteria

To allow for State approval of nationally-recognized high school academic as-

⁵ So in original. Probably should be "(20 U.S.C. 1412(a)(16)(C))".

assessments that are available for local selection under clause (i), a State educational agency shall establish technical criteria to determine if any such assessment meets the requirements of clause (v).

(iii) State approval

If a State educational agency chooses to make a nationally-recognized high school assessment available for selection by a local educational agency under clause (i), which has not already been approved under this clause, such State educational agency shall—

(I) conduct a review of the assessment to determine if such assessment meets or exceeds the technical criteria established by the State educational agency under clause (ii);

(II) submit evidence in accordance with subsection (a)(4) that demonstrates such assessment meets the requirements of clause (v); and

(III) after fulfilling the requirements of subclauses (I) and (II), approve such assessment for selection and use by any local educational agency that requests to use such assessment under clause (i).

(iv) Local educational agency option

(I) Local educational agency

If a local educational agency chooses to submit a nationally-recognized high school academic assessment to the State educational agency, subject to the approval process described in subclause (I) and subclause (II) of clause (iii) to determine if such assessment fulfills the requirements of clause (v), the State educational agency may approve the use of such assessment consistent with clause (i).

(II) State educational agency

Upon such approval, the State educational agency shall approve the use of such assessment in any other local educational agency in the State that subsequently requests to use such assessment without repeating the process described in subclauses (I) and (II) of clause (iii).

(v) Requirements

To receive approval from the State educational agency under clause (iii), a locally-selected assessment shall—

(I) be aligned to the State's academic content standards under paragraph (1), address the depth and breadth of such standards, and be equivalent in its content coverage, difficulty, and quality to the State-designed assessments under this paragraph (and may be more rigorous in its content coverage and difficulty than such State-designed assessments);

(II) provide comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessments, for all students and for each subgroup of students defined in subsection (c)(2), with results expressed in terms consistent with the State's academic

achievement standards under paragraph (1), among all local educational agencies within the State;

(III) meet the requirements for the assessments under subparagraph (B) of this paragraph, including technical criteria, except the requirement under clause (i) of such subparagraph; and

(IV) provide unbiased, rational, and consistent differentiation between schools within the State to meet the requirements of subsection (c).

(vi) Parental notification

A local educational agency shall notify the parents of high school students served by the local educational agency—

(I) of its request to the State educational agency for approval to administer a locally-selected assessment; and

(II) upon approval, and at the beginning of each subsequent school year during which the locally selected assessment will be administered, that the local educational agency will be administering a different assessment than the State-designed assessments under subclause (I)(bb) and subclause (II)(cc) of subparagraph (B)(v).

(I) Deferral

A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, for 1 year for each year for which the amount appropriated for grants under part B is less than \$369,100,000.

(J) Adaptive assessments

(i) In general

Subject to clause (ii), a State retains the right to develop and administer computer adaptive assessments as the assessments described in this paragraph, provided the computer adaptive assessments meet the requirements of this paragraph, except that—

(I) subparagraph (B)(i) shall not be interpreted to require that all students taking the computer adaptive assessment be administered the same assessment items; and

(II) such assessment—

(aa) shall measure, at a minimum, each student's academic proficiency based on the challenging State academic standards for the student's grade level and growth toward such standards; and

(bb) may measure the student's level of academic proficiency and growth using items above or below the student's grade level, including for use as part of a State's accountability system under subsection (c).

(ii) Students with the most significant cognitive disabilities and English learners

In developing and administering computer adaptive assessments—

(I) as the assessments allowed under subparagraph (D), a State shall ensure

that such computer adaptive assessments—

(aa) meet the requirements of this paragraph, including subparagraph (D), except such assessments shall not be required to meet the requirements of clause (i)(II); and

(bb) assess the student's academic achievement to measure, in the subject being assessed, whether the student is performing at the student's grade level; and

(II) as the assessments required under subparagraph (G), a State shall ensure that such computer adaptive assessments—

(aa) meet the requirements of this paragraph, including subparagraph (G), except such assessment shall not be required to meet the requirements of clause (i)(II); and

(bb) assess the student's language proficiency, which may include growth towards such proficiency, in order to measure the student's acquisition of English.

(K) Rule of construction on parent rights

Nothing in this paragraph shall be construed as preempting a State or local law regarding the decision of a parent to not have the parent's child participate in the academic assessments under this paragraph.

(L) Limitation on assessment time

Subject to Federal or State requirements related to assessments, evaluations, and accommodations, each State may, at the sole discretion of such State, set a target limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours.

(3) Exception for recently arrived English learners

(A) Assessments

With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States in the United States or the District of Columbia for less than 12 months, a State may choose to—

(i) exclude—

(I) such an English learner from one administration of the reading or language arts assessment required under paragraph (2); and

(II) such an English learner's results on any of the assessments required under paragraph (2)(B)(v)(I) or (2)(G) for the first year of the English learner's enrollment in such a school for the purposes of the State-determined accountability system under subsection (c); or

(ii)(I) assess, and report the performance of, such an English learner on the reading or language arts and mathematics assessments required under paragraph (2)(B)(v)(I) in each year of the student's enrollment in such a school; and

(II) for the purposes of the State-determined accountability system—

(aa) for the first year of the student's enrollment in such a school, exclude the results on the assessments described in subclause (I);

(bb) include a measure of student growth on the assessments described in subclause (I) in the second year of the student's enrollment in such a school; and

(cc) include proficiency on the assessments described in subclause (I) in the third year of the student's enrollment in such a school, and each succeeding year of such enrollment.

(B) English learner subgroup

With respect to a student previously identified as an English learner and for not more than 4 years after the student ceases to be identified as an English learner, a State may include the results of the student's assessments under paragraph (2)(B)(v)(I) within the English learner subgroup of the subgroups of students (as defined in subsection (c)(2)(D)) for the purposes of the State-determined accountability system.

(c) Statewide accountability system

(1) In general

Each State plan shall describe a statewide accountability system that complies with the requirements of this subsection and subsection (d).

(2) Subgroup of students

In this subsection and subsection (d), the term "subgroup of students" means—

(A) economically disadvantaged students;

(B) students from major racial and ethnic groups;

(C) children with disabilities; and

(D) English learners.

(3) Minimum number of students

Each State shall describe—

(A) with respect to any provisions under this part that require disaggregation of information by each subgroup of students—

(i) the minimum number of students that the State determines are necessary to be included to carry out such requirements and how that number is statistically sound, which shall be the same State-determined number for all students and for each subgroup of students in the State;

(ii) how such minimum number of students was determined by the State, including how the State collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number; and

(iii) how the State ensures that such minimum number is sufficient to not reveal any personally identifiable information.

(4) Description of system

The statewide accountability system described in paragraph (1) shall be based on the challenging State academic standards for reading or language arts and mathematics described in subsection (b)(1) to improve student

academic achievement and school success. In designing such system to meet the requirements of this part, the State shall carry out the following:

(A) Establishment of long-term goals

Establish ambitious State-designed long-term goals, which shall include measurements of interim progress toward meeting such goals—

(i) for all students and separately for each subgroup of students in the State—

(I) for, at a minimum, improved—

(aa) academic achievement, as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and

(bb) high school graduation rates, including—

(AA) the four-year adjusted cohort graduation rate; and

(BB) at the State's discretion, the extended-year adjusted cohort graduation rate, except that the State shall set a more rigorous long-term goal for such graduation rate, as compared to the long-term goal set for the four-year adjusted cohort graduation rate;

(II) for which the term set by the State for such goals is the same multi-year length of time for all students and for each subgroup of students in the State; and

(III) that, for subgroups of students who are behind on the measures described in items (aa) and (bb) of subclause (I), take into account the improvement necessary on such measures to make significant progress in closing statewide proficiency and graduation rate gaps; and

(ii) for English learners, for increases in the percentage of such students making progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline.

(B) Indicators

Except for the indicator described in clause (iv), annually measure, for all students and separately for each subgroup of students, the following indicators:

(i) For all public schools in the State, based on the long-term goals established under subparagraph (A), academic achievement—

(I) as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and

(II) at the State's discretion, for each public high school in the State, student growth, as measured by such annual assessments.

(ii) For public elementary schools and secondary schools that are not high schools in the State—

(I) a measure of student growth, if determined appropriate by the State; or

(II) another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance.

(iii) For public high schools in the State, and based on State-designed long term goals established under subparagraph (A)—

(I) the four-year adjusted cohort graduation rate; and

(II) at the State's discretion, the extended-year adjusted cohort graduation rate.

(iv) For public schools in the State, progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline for all English learners—

(I) in each of the grades 3 through 8; and

(II) in the grade for which such English learners are otherwise assessed under subsection (b)(2)(B)(v)(I) during the grade 9 through grade 12 period, with such progress being measured against the results of the assessments described in subsection (b)(2)(G) taken in the previous grade.

(v)(I) For all public schools in the State, not less than one indicator of school quality or student success that—

(aa) allows for meaningful differentiation in school performance;

(bb) is valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State); and

(cc) may include one or more of the measures described in subclause (II).

(II) For purposes of subclause (I), the State may include measures of—

(III)⁶ student engagement;

(IV)⁶ educator engagement;

(V)⁶ student access to and completion of advanced coursework;

(VI)⁶ postsecondary readiness;

(VII)⁶ school climate and safety; and

(VIII)⁶ any other indicator the State chooses that meets the requirements of this clause.

(C) Annual meaningful differentiation

Establish a system of meaningfully differentiating, on an annual basis, all public schools in the State, which shall—

(i) be based on all indicators in the State's accountability system under subparagraph (B), for all students and for each of⁷ subgroup of students, consistent with the requirements of such subparagraph;

(ii) with respect to the indicators described in clauses (i) through (iv) of subparagraph (B) afford—

(I) substantial weight to each such indicator; and

⁶So in original. Designations (III) to (VIII) probably should be (aa) to (ff), respectively.

⁷So in original. The word "of" probably should not appear.

(II) in the aggregate, much greater weight than is afforded to the indicator or indicators utilized by the State and described in subparagraph (B)(v), in the aggregate; and

(iii) include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators under subparagraph (B) and the system established under this subparagraph.

(D) Identification of schools

Based on the system of meaningful differentiation described in subparagraph (C), establish a State-determined methodology to identify—

(i) beginning with school year 2017–2018, and at least once every three school years thereafter, one statewide category of schools for comprehensive support and improvement, as described in subsection (d)(1), which shall include—

(I) not less than the lowest-performing 5 percent of all schools receiving funds under this part in the State;

(II) all public high schools in the State failing to graduate one third or more of their students; and

(III) public schools in the State described under subsection (d)(3)(A)(i)(II); and

(ii) at the discretion of the State, additional statewide categories of schools.

(E) Annual measurement of achievement

(i) Annually measure the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools on the assessments described under subsection (b)(2)(v)(I).

(ii) For the purpose of measuring, calculating, and reporting on the indicator described in subparagraph (B)(i), include in the denominator the greater of—

(I) 95 percent of all such students, or 95 percent of all such students in the subgroup, as the case may be; or

(II) the number of students participating in the assessments.

(iii) Provide a clear and understandable explanation of how the State will factor the requirement of clause (i) of this subparagraph into the statewide accountability system.

(F) Partial attendance

(i) In the case of a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)—

(I) may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year; and

(II) shall be used for the purpose of reporting on the State and local educational agency report cards under subsection (h) for such school year.

(ii) In the case of a high school student who has not attended the same school within a local educational agency for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such school year, the local educational agency shall, in order to calculate the graduation rate pursuant to subparagraph (B)(iii), assign such student to the high school—

(I) at which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or

(II) in which the student was most recently enrolled.

(5) Accountability for charter schools

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

(d) School support and improvement activities

(1) Comprehensive support and improvement

(A) In general

Each State educational agency receiving funds under this part shall notify each local educational agency in the State of any school served by the local educational agency that is identified for comprehensive support and improvement under subsection (c)(4)(D)(i).

(B) Local educational agency action

Upon receiving such information from the State, the local educational agency shall, for each school identified by the State and in partnership with stakeholders (including principals and other school leaders, teachers, and parents), locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes, that—

(i) is informed by all indicators described in subsection (c)(4)(B), including student performance against State-determined long-term goals;

(ii) includes evidence-based interventions;

(iii) is based on a school-level needs assessment;

(iv) identifies resource inequities, which may include a review of local educational agency and school-level budgeting, to be addressed through implementation of such comprehensive support and improvement plan;

(v) is approved by the school, local educational agency, and State educational agency; and

(vi) upon approval and implementation, is monitored and periodically reviewed by the State educational agency.

(C) State educational agency discretion

With respect to any high school in the State identified under subsection (c)(4)(D)(i)(II), the State educational agency may—

(i) permit differentiated improvement activities that utilize evidence-based

interventions in the case of such a school that predominantly serves students—

(I) returning to education after having exited secondary school without a regular high school diploma; or

(II) who, based on their grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements, as established by the State; and

(ii) in the case of such a school that has a total enrollment of less than 100 students, permit the local educational agency to forego implementation of improvement activities required under this paragraph.

(D) Public school choice

(i) In general

A local educational agency may provide all students enrolled in a school identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) with the option to transfer to another public school served by the local educational agency, unless such an option is prohibited by State law.

(ii) Priority

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 the purposes of allocating funds to schools under section 6313(a)(3) of this title.

(iii) Treatment

A student who uses the option to transfer to another public school shall be enrolled in classes and other activities in the public school to which the student transfers in the same manner as all other students at the public school.

(iv) Special rule

A local educational agency shall permit a student who transfers to another public school under this paragraph to remain in that school until the student has completed the highest grade in that school.

(v) Funding for transportation

A local educational agency may spend an amount equal to not more than 5 percent of its allocation under subpart 2 of this part to pay for the provision of transportation for students who transfer under this paragraph to the public schools to which the students transfer.

(2) Targeted support and improvement

(A) In general

Each State educational agency receiving funds under this part shall, using the meaningful differentiation of schools described in subsection (c)(4)(C)—

(i) notify each local educational agency in the State of any school served by the local educational agency in which any subgroup of students is consistently underperforming, as described in subsection (c)(4)(C)(iii); and

(ii) ensure such local educational agency provides notification to such school with respect to which subgroup or subgroups of students in such school are consistently underperforming as described in subsection (c)(4)(C)(iii).

(B) Targeted support and improvement plan

Each school receiving a notification described in this paragraph, in partnership with stakeholders (including principals and other school leaders, teachers and parents), shall develop and implement a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system established under subsection (c)(4), for each subgroup of students that was the subject of notification that—

(i) is informed by all indicators described in subsection (c)(4)(B), including student performance against long-term goals;

(ii) includes evidence-based interventions;

(iii) is approved by the local educational agency prior to implementation of such plan;

(iv) is monitored, upon submission and implementation, by the local educational agency; and

(v) results in additional action following unsuccessful implementation of such plan after a number of years determined by the local educational agency.

(C) Additional targeted support

A plan described in subparagraph (B) that is developed and implemented in any school receiving a notification under this paragraph from the local educational agency in which any subgroup of students, on its own, would lead to identification under subsection (c)(4)(D)(i)(I) using the State's methodology under subsection (c)(4)(D) shall also identify resource inequities (which may include a review of local educational agency and school level budgeting), to be addressed through implementation of such plan.

(D) Special rule

The State educational agency, based on the State's differentiation of schools under subsection (c)(4)(C) for school year 2017–2018, shall notify local educational agencies of any schools served by the local educational agency in which any subgroup of students, on its own, would lead to identification under subsection (c)(4)(D)(i)(I) using the State's methodology under subsection (c)(4)(D), after which notification of such schools under this paragraph shall result from differentiation of schools pursuant to subsection (c)(4)(C)(iii).

(3) Continued support for school and local educational agency improvement

To ensure continued progress to improve student academic achievement and school success in the State, the State educational agency—

(A) shall—

(i) establish statewide exit criteria for—

(I) schools identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i), which, if not satisfied within a State-determined number of years (not to exceed four years), shall result in more rigorous State-determined action, such as the implementation of interventions (which may include addressing school-level operations); and

(II) schools described in paragraph (2)(C), which, if not satisfied within a State-determined number of years, shall, in the case of such schools receiving assistance under this part, result in identification of the school by the State for comprehensive support and improvement under subsection (c)(4)(D)(i)(III);

(ii) periodically review resource allocation to support school improvement in each local educational agency in the State serving—

(I) a significant number of schools identified for comprehensive support and improvement under subsection (c)(4)(D)(i); and

(II) a significant number of schools implementing targeted support and improvement plans under paragraph (2); and

(iii) provide technical assistance to each local educational agency in the State serving a significant number of—

(I) schools implementing comprehensive support and improvement plans under paragraph (1); or

(II) schools implementing targeted support and improvement plans under paragraph (2); and

(B) may—

(i) take action to initiate additional improvement in any local educational agency with—

(I) a significant number of schools that are consistently identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) and not meeting exit criteria established by the State under subparagraph (A)(i)(I); or

(II) a significant number of schools implementing targeted support and improvement plans under paragraph (2); and

(ii) consistent with State law, establish alternative evidence-based State determined strategies that can be used by local educational agencies to assist a school identified for comprehensive support and improvement under subsection (c)(4)(D)(i).

(4) Rule of construction for collective bargaining

Nothing in this subsection shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school or local educational agency 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 employers and their employees.

(e) Prohibition

(1) In general

Nothing in this chapter shall be construed to authorize or permit the Secretary—

(A) when promulgating any rule or regulation, to promulgate any rule or regulation on the development or implementation of the statewide accountability system established under this section that would—

(i) add new requirements that are inconsistent with or outside the scope of this part;

(ii) add new criteria that are inconsistent with or outside the scope of this part; or

(iii) be in excess of statutory authority granted to the Secretary;

(B) as a condition of approval of the State plan, or revisions or amendments to, the State plan, or approval of a waiver request submitted under section 7861 of this title, to—

(i) require a State to add any requirements that are inconsistent with or outside the scope of this part;

(ii) require a State to add or delete one or more specific elements of the challenging State academic standards; or

(iii) prescribe—

(I) numeric long-term goals or measurements of interim progress that States establish for all students, for any subgroups of students, and for English learners with respect to English language proficiency, under this part, including—

(aa) the length of terms set by States in designing such goals; or

(bb) the progress expected from any subgroups of students in meeting such goals;

(II) specific academic assessments or assessment items that States or local educational agencies use to meet the requirements of subsection (b)(2) or otherwise use to measure student academic achievement or student growth under this part;

(III) indicators that States use within the State accountability system under this section, including any requirement to measure student growth, or, if a State chooses to measure student growth, the specific metrics used to measure such growth under this part;

(IV) the weight of any measure or indicator used to identify or meaningfully differentiate schools, under this part;

(V) the specific methodology used by States to meaningfully differentiate or identify schools under this part;

(VI) any specific school support and improvement strategies or activities that State or local educational agencies establish and implement to intervene in, support, and improve schools and improve student outcomes under this part;

(VII) exit criteria established by States under subsection (d)(3)(A)(i);

(VIII) provided that the State meets the requirements in subsection (c)(3), a minimum number of students established by a State under such subsection;

(IX) any aspect or parameter of a teacher, principal, or other school leader evaluation system within a State or local educational agency;

(X) indicators or specific measures of teacher, principal, or other school leader effectiveness or quality; or

(XI) the way in which the State factors the requirement under subsection (c)(4)(E)(i) into the statewide accountability system under this section; or

(C) to issue new non-regulatory guidance that—

(i) in seeking to provide explanation of requirements under this section for State or local educational agencies, either in response to requests for information or in anticipation of such requests, provides a strictly limited or exhaustive list to illustrate successful implementation of provisions under this section; or

(ii) purports to be legally binding; or

(D) to require data collection under this part beyond data derived from existing Federal, State, and local reporting requirements.

(2) Defining terms

In carrying out this part, the Secretary shall not, through regulation or as a condition of approval of the State plan or revisions or amendments to the State plan, promulgate a definition of any term used in this part, or otherwise prescribe any specification for any such term, that is inconsistent with or outside the scope of this part or is in violation of paragraph (1).

(f) Existing State law

Nothing in this section shall be construed to alter any State law or regulation granting parents authority over schools that repeatedly failed to make adequate yearly progress under this part, as in effect on the day before December 10, 2015.

(g) Other plan provisions

(1) Descriptions

Each State plan shall describe—

(A) how the State will provide assistance to local educational agencies and individual elementary schools choosing to use funds under this part to support early childhood education programs;

(B) how low-income and minority children enrolled in schools assisted under this part are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such description (except that nothing in this subparagraph shall be construed as requiring a State to develop or implement a teacher,

principal, or other school leader evaluation system);

(C) how the State educational agency will support local educational agencies receiving assistance under this part to improve school conditions for student learning, including through reducing—

(i) incidences of bullying and harassment;

(ii) the overuse of discipline practices that remove students from the classroom; and

(iii) the use of aversive behavioral interventions that compromise student health and safety;

(D) how the State will support local educational agencies receiving assistance under this part in meeting the needs of students at all levels of schooling (particularly students in the middle grades and high school), including how the State will work with such local educational agencies to provide effective transitions of students to middle grades and high school to decrease the risk of students dropping out;

(E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that—

(i) any such child enrolls or remains in such child's school of origin, unless a determination is made that it is not in such child's best interest to attend the school of origin, which decision shall be based on all factors relating to the child's best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(ii) when a determination is made that it is not in such child's best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment;

(iii) the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records; and

(iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph, and such point of contact shall not be the State's Coordinator for Education of Homeless Children and Youths under section 722(d)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(d)(3));

(F) how the State educational agency will provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youths; and

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

(2) Assurances

Each State plan shall contain assurances that—

(A) the State will make public any methods or criteria the State is using to measure teacher, principal, or other school leader effectiveness for the purpose of meeting the requirements described in paragraph (1)(B);

(B) the State educational agency will notify local educational agencies, Indian tribes and tribal organizations, schools, teachers, parents, and the public of the challenging State academic standards, academic assessments, and State accountability system, developed under this section;

(C) the State educational agency will assist each local educational agency and school affected by the State plan to meet the requirements of this part;

(D) the State will participate in the biennial State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress carried out under section 303(b)(3) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(3)) if the Secretary pays the costs of administering such assessments;

(E) 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 to improve educational opportunities and reduce unnecessary fiscal and accounting requirements;

(F) the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parent and family engagement strategies, including those included in the parent and family engagement policy under section 6318 of this title;

(G) 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;

(H) the State educational agency will ensure that local educational agencies, in developing and implementing programs under this part, will, to the extent feasible, work in consultation with outside intermediary organizations (such as educational service agencies), or individuals, that have practical expertise in the development or use of evidence-based strategies and programs to improve teaching, learning, and schools;

(I) the State educational agency has appropriate procedures and safeguards in place to ensure the validity of the assessment process;

(J) the State educational agency will ensure that all teachers and paraprofessionals working in a program supported with funds under this part meet applicable State cer-

tification and licensure requirements, including any requirements for certification obtained through alternative routes to certification;

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

(L) 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;

(M) the State has professional standards for paraprofessionals working in a program supported with funds under this part, including qualifications that were in place on the day before December 10, 2015; and

(N) the State educational agency will provide the information described in clauses (ii), (iii), and (vii) of subsection (h)(1)(C) to the public in an easily accessible and user-friendly manner that can be cross-tabulated by, at a minimum, each major racial and ethnic group, gender, English proficiency status, and children with or without disabilities, which—

(i) may be accomplished by including such information on the annual State report card described subsection (h)(1)(C); and

(ii) shall be presented in a manner that—

(I) is first anonymized and does not reveal personally identifiable information about an individual student;

(II) does not include a number of students in any subgroup of students that is insufficient to yield statistically reliable information or that would reveal personally identifiable information about an individual student; and

(III) is consistent with the requirements of section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”).

(3) Rules of construction

Nothing in paragraph (2)(N) shall be construed to—

(A) require groups of students obtained by any entity that cross-tabulates the information provided under such paragraph to be considered subgroups of students, as defined in subsection (c)(2), for the purposes of the State accountability system under subsection (c); or

(B) require or prohibit States or local educational agencies from publicly reporting data in a cross-tabulated manner, in order to meet the requirements of paragraph (2)(N).

(4) Technical assistance

Upon request by a State educational agency, the Secretary shall provide technical assistance to such agency to—

(A) meet the requirements of paragraph (2)(N); or

(B) in the case of a State educational agency choosing, at its sole discretion, to disaggregate data described in clauses (ii) and (iii)(II) of subsection (h)(1)(C) for Asian and Native Hawaiian or Pacific Islander students

using the same race response categories as the decennial census of the population, assist such State educational agency in such disaggregation and in using such data to improve academic outcomes for such students.

(h) Reports

(1) Annual State report card

(A) In general

A State that receives assistance under this part shall prepare and disseminate widely to the public an annual State report card for the State as a whole that meets the requirements of this paragraph.

(B) Implementation

The State report card required under this paragraph shall be—

- (i) concise;
- (ii) presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, in a language that parents can understand; and
- (iii) widely accessible to the public, which shall include making available on a single webpage of the State educational agency's website, the State report card, all local educational agency report cards for each local educational agency in the State required under paragraph (2), and the annual report to the Secretary under paragraph (5).

(C) Minimum requirements

Each State report card required under this subsection shall include the following information:

- (i) A clear and concise description of the State's accountability system under subsection (c), including—
 - (I) the minimum number of students that the State determines are necessary to be included in each of the subgroups of students, as defined in subsection (c)(2), for use in the accountability system;
 - (II) the long-term goals and measurements of interim progress for all students and for each of the subgroups of students, as defined in subsection (c)(2);
 - (III) the indicators described in subsection (c)(4)(B) used to meaningfully differentiate all public schools in the State;
 - (IV) the State's system for meaningfully differentiating all public schools in the State, including—
 - (aa) the specific weight of the indicators described in subsection (c)(4)(B) in such differentiation;
 - (bb) the methodology by which the State differentiates all such schools;
 - (cc) the methodology by which the State differentiates a school as consistently underperforming for any subgroup of students described in section (c)(4)(C)(iii), including the time period used by the State to determine consistent underperformance; and
 - (dd) the methodology by which the State identifies a school for compre-

hensive support and improvement as required under subsection (c)(4)(D)(i);

(V) the number and names of all public schools in the State identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) or implementing targeted support and improvement plans under subsection (d)(2); and

(VI) the exit criteria established by the State as required under clause (i) of subsection (d)(3)(A), including the length of years established under clause (i)(II) of such subsection.

(ii) For all students and disaggregated by each subgroup of students described in subsection (b)(2)(B)(xi), homeless status, status as a child in foster care, and status as a student with a parent who is a member of the Armed Forces (as defined in section 101(a)(4) of title 10) on active duty (as defined in section 101(d)(5)⁸ of such title), information on student achievement on the academic assessments described in subsection (b)(2) at each level of achievement, as determined by the State under subsection (b)(1).

(iii) For all students and disaggregated by each of the subgroups of students, as defined in subsection (c)(2), and for purposes of subclause (II) of this clause, homeless status and status as a child in foster care—

(I) information on the performance on the other academic indicator under subsection (c)(4)(B)(ii) for public elementary schools and secondary schools that are not high schools, used by the State in the State accountability system; and

(II) high school graduation rates, including four-year adjusted cohort graduation rates and, at the State's discretion, extended-year adjusted cohort graduation rates.

(iv) Information on the number and percentage of English learners achieving English language proficiency.

(v) For all students and disaggregated by each of the subgroups of students, as defined in subsection (c)(2), information on the performance on the other indicator or indicators of school quality or student success under subsection (c)(4)(B)(v) used by the State in the State accountability system.

(vi) Information on the progress of all students and each subgroup of students, as defined in subsection (c)(2), toward meeting the State-designed long term goals under subsection (c)(4)(A), including the progress of all students and each such subgroup of students against the State measurements of interim progress established under such subsection.

(vii) For all students and disaggregated by each subgroup of students described in subsection (b)(2)(B)(xi), the percentage of students assessed and not assessed.

⁸ So in original. Probably should be "101(d)(1)".

(viii) Information submitted by the State educational agency and each local educational agency in the State, in accordance with data collection conducted pursuant to section 3413(c)(1) of this title, on—

(I) measures of school quality, climate, and safety, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), incidences of violence, including bullying and harassment; and

(II) the number and percentage of students enrolled in—

(aa) preschool programs; and

(bb) accelerated coursework to earn postsecondary credit while still in high school, such as Advanced Placement and International Baccalaureate courses and examinations, and dual or concurrent enrollment programs.

(ix) The professional qualifications of teachers in the State, including information (that shall be presented in the aggregate and disaggregated by high-poverty compared to low-poverty schools) on the number and percentage of—

(I) inexperienced teachers, principals, and other school leaders;

(II) teachers teaching with emergency or provisional credentials; and

(III) teachers who are not teaching in the subject or field for which the teacher is certified or licensed.

(x) The per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds, disaggregated by source of funds, for each local educational agency and each school in the State for the preceding fiscal year.

(xi) The number and percentages of students with the most significant cognitive disabilities who take an alternate assessment under subsection (b)(2)(D), by grade and subject.

(xii) Results on the State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress carried out under section 303(b)(3) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(3)), compared to the national average of such results.

(xiii) Where available, for each high school in the State, and beginning with the report card prepared under this paragraph for 2017, the cohort rate (in the aggregate, and disaggregated for each subgroup of students defined in subsection (c)(2)), at which students who graduate from the high school enroll, for the first academic year that begins after the students' graduation—

(I) in programs of public postsecondary education in the State; and

(II) if data are available and to the extent practicable, in programs of private

postsecondary education in the State or programs of postsecondary education outside the State.

(xiv) Any additional information that 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 secondary schools, which may include the number and percentage of students attaining career and technical proficiencies (⁹as defined by section 113(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)) and reported by States only in a manner consistent with section 113(c) of such Act (20 U.S.C. 2323(c)).

(D) Rules of construction

Nothing in subparagraph (C)(viii) shall be construed as requiring—

(i) reporting of any data that are not collected in accordance with section 3413(c)(1) of this title; or

(ii) disaggregation of any data other than as required under subsection (b)(2)(B)(xi).

(2) Annual local educational agency report cards

(A) Preparation and dissemination

A local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card that includes information on such agency as a whole and each school served by the agency.

(B) Implementation

Each local educational agency report card shall be—

(i) concise;

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

(iii) accessible to the public, which shall include—

(I) placing such report card on the website of the local educational agency; and

(II) in any case in which a local educational agency does not operate a website, providing the information to the public in another manner determined by the local educational agency.

(C) 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), disaggregated in the same manner as required under such paragraph, except for clause (ii) of such paragraph, as applied to the local educational agency and each school served by the local educational agency, including—

(i) in the case of a local educational agency, information that shows how stu-

⁹So in original. There is no corresponding closing parenthesis.

dents served by the local educational agency achieved on the academic assessments described in subsection (b)(2) compared to students in the State as a whole;

(ii) in the case of a school, information that shows how the school's students' achievement on the academic assessments described in subsection (b)(2) compared to students served by the local educational agency and the State as a whole; and

(iii) any other information that the local educational agency determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the local educational agency, whether or not such information is included in the annual State report card.

(D) Additional information

In the case of a local educational agency that 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 may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to December 10, 2015, 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, and protects the privacy of individual students.

(4) Cost reduction

Each State educational agency and local educational agency receiving assistance under this part shall, wherever possible, take steps to reduce data collection costs and duplication of effort by obtaining the information required under this subsection through existing data collection efforts.

(5) 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) information on the achievement of students on the academic assessments required by subsection (b)(2), including the disaggregated results for the subgroups of students as defined in subsection (c)(2);

(B) information on the acquisition of English proficiency by English learners;

(C) the number and names of each public school in the State—

(i) identified for comprehensive support and improvement under subsection (c)(4)(D)(i); and

(ii) implementing targeted support and improvement plans under subsection (d)(2); and

(D) information on the professional qualifications of teachers in the State, including information on the number and the percentage of the following teachers:

(i) Inexperienced teachers.

(ii) Teachers teaching with emergency or provisional credentials.

(iii) Teachers who are not teaching in the subject or field for which the teacher is certified or licensed.

(6) 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 (5). Such report shall be submitted through electronic means only.

(i) Privacy

(1) In general

Information collected or disseminated under this section (including any information collected for or included in the reports described in subsection (h)) shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 1232g of this title (commonly known as the "Family Educational Rights and Privacy Act of 1974") and this chapter.

(2) Sufficiency

The reports described in subsection (h) shall only include data that are sufficient to yield statistically reliable information.

(3) Disaggregation

Disaggregation under this section shall not be required if such disaggregation will reveal personally identifiable information about any student, teacher, principal, or other school leader, or will provide data that are insufficient to yield statistically reliable information.

(j) Voluntary partnerships

A State retains the right to enter into a voluntary partnership with another State to develop and implement the challenging State academic standards and assessments required under this section, except that the Secretary shall not attempt to influence, incentivize, or coerce State—

(1) adoption of the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States, or assessments tied to such standards; or

(2) participation in such partnerships.

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

In determining the assessments to be used by each school operated or funded by the Bureau of Indian Education receiving funds under this part, the following shall apply until the requirements of section 7824(c) of this title have been met:

(1) Each such school that is accredited by the State in which it is operating shall use the assessments and other academic indicators the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment and academic indica-

tors as approved by the Secretary of the Interior.

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

(I) 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.

(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; Pub. L. 114–95, title I, §1005, Dec. 10, 2015, 129 Stat. 1820; Pub. L. 115–224, title III, §302(1), July 31, 2018, 132 Stat. 1623.)

AMENDMENT OF SUBSECTION (h)(1)(C)(xiv)

Pub. L. 115–224, §4, title III, §302(1), July 31, 2018, 132 Stat. 1564, 1623, provided that, effective July 1, 2019, subsection (h)(1)(C)(xiv) of this section is amended by substituting “meeting State determined levels of performance for core indicators, as defined by section 113(b)(3)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)(3)(A)), and reported by States only in a manner consistent with section 113(b)(3)(C) of such Act (20 U.S.C. 2323(b)(3)(C))” for “attaining career and technical proficiencies (as defined by section 113(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)) and reported by States only in a manner consistent with section 113(c) of such Act (20 U.S.C. 2323(c))”. See 2018 Amendment note below.

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1)(B) and (b)(1)(E)(i)(II), (2)(B)(vii)(II), (D)(i)(III), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, 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 Rehabilitation Act of 1973, referred to in subsec. (a)(1)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1)(B), 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 Workforce Innovation and Opportunity Act, referred to in subsec. (a)(1)(B), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Head Start Act, referred to in subsec. (a)(1)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(1)(B), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–236, which is classified generally to subchapter II–B (§9857 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 9857(a) of Title 42 and Tables.

The Education Sciences Reform Act of 2002, referred to in subsec. (a)(1)(B), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 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.

The Educational Technical Assistance Act of 2002, referred to in subsec. (a)(1)(B), 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.

The National Assessment of Educational Progress Authorization Act, referred to in subsec. (a)(1)(B), is title III of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1982, which is classified generally to subchapter III (§9621 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.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1)(B), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, 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 Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(B), is title II of Pub. L. 113–128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

Public Law 93–112, referred to in subsec. (b)(1)(E)(i)(V), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, known as the Rehabilitation Act of 1973, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. July 22, 2014, refers to the date of enactment of title IV (§401 et seq.) of Pub. L. 113–128, 128 Stat. 1631, which amended numerous sections in the Act. For complete classification of Pub. L. 93–112 to the Code, see Short Title note set out under section 701 of Title 29 and Tables. For complete classification of title IV of Pub. L. 113–128 to the Code, see Tables.

The Social Security Act, referred to in subsec. (g)(1)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.), respectively, 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 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

2018—Subsec. (h)(1)(C)(xiv). Pub. L. 115-224 substituted “meeting State determined levels of performance for core indicators, as defined by section 113(b)(3)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)(3)(A)), and reported by States only in a manner consistent with section 113(b)(3)(C) of such Act (20 U.S.C. 2323(b)(3)(C))” for “attaining career and technical proficiencies (as defined by section 113(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)) and reported by States only in a manner consistent with section 113(c) of such Act (20 U.S.C. 2323(c))”.

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section related to State plan to adopt challenging academic standards to be applied to all schools and children in the State and penalties for failure to meet deadlines enacted in 1994 and 2001.

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”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-224 effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, with separate effective dates for subsecs. (b)(2), (c), and (d) and with special rules for implementation of interventions at certain schools and local educational agencies, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6312. Local educational agency plans

(a) Plans required

(1) Subgrants

A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that—

(A) is developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), administrators (including administrators of programs described in other parts of this subchapter), other appropriate school personnel,

and with parents of children in schools served under this part; and

(B) as appropriate, is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Rehabilitation Act of 1973 (20 U.S.C. 701 et seq.),¹ the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), the Adult Education and Family Literacy Act (29 U.S.C. 3271 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.

(3) State approval

(A) In general

Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

(B) 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—

(i) provides that schools served under this part substantially help children served under this part meet the challenging State academic standards; and

(ii) meets the requirements of this section.

(4) Duration

Each local educational agency plan shall be submitted for the first year for which this part is in effect following December 10, 2015, and shall remain in effect for the duration of the agency’s participation under this part.

(5) Review

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

(6) Rule of construction

Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section.

(b) Plan provisions

To ensure that all children receive a high-quality education, and to close the achievement gap between children meeting the challenging State academic standards and those children who are not meeting such standards, each local educational agency plan shall describe—

(1) how the local educational agency will monitor students’ progress in meeting the challenging State academic standards by—

(A) developing and implementing a well-rounded program of instruction to meet the academic needs of all students;

(B) identifying students who may be at risk for academic failure;

¹ So in original. Probably should be “(29 U.S.C. 701 et seq.)”.

(C) providing additional educational assistance to individual students the local educational agency or school determines need help in meeting the challenging State academic standards; and

(D) identifying and implementing instructional and other strategies intended to strengthen academic programs and improve school conditions for student learning;

(2) how the local educational agency will identify and address, as required under State plans as described in section 6311(g)(1)(B) of this title, any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers;

(3) how the local educational agency will carry out its responsibilities under paragraphs (1) and (2) of section 6311(d) of this title;

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

(5) in general, 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;

(6) the services the local educational agency will provide homeless children and youths, including services provided with funds reserved under section 6313(c)(3)(A) of this title, to support the enrollment, attendance, and success of homeless children and youths, in coordination with the services the local educational agency is providing under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.);

(7) the strategy the local educational agency will use to implement effective parent and family engagement under section 6318 of this title;

(8) if applicable, how the local educational agency will support, coordinate, and integrate services provided under this part with early childhood education programs at the local educational agency or individual school level, including plans for the transition of participants in such programs to local elementary school programs;

(9) how teachers and school leaders, in consultation with parents, administrators, paraprofessionals, and specialized instructional support personnel, in schools operating a targeted assistance school program under section 6315 of this title, will identify the eligible children most in need of services under this part;

(10) how the local educational agency will implement strategies to facilitate effective transitions for students from middle grades to high school and from high school to post-secondary education including, if applicable—

(A) through coordination with institutions of higher education, employers, and other local partners; and

(B) through increased student access to early college high school or dual or concurrent enrollment opportunities, or career

counseling to identify student interests and skills;

(11) how the local educational agency will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each of the subgroups of students, as defined in section 6311(c)(2) of this title;

(12) if determined appropriate by the local educational agency, how such agency will support programs that coordinate and integrate—

(A) academic and career and technical education content through coordinated instructional strategies, that may incorporate experiential learning opportunities and promote skills attainment important to in-demand occupations or industries in the State; and

(B) work-based learning opportunities that provide students in-depth interaction with industry professionals and, if appropriate, academic credit; and

(13) any other information on how the local educational agency proposes to use funds to meet the purposes of this part, and that the local educational agency determines appropriate to provide, which may include how the local educational agency will—

(A) assist schools in identifying and serving gifted and talented students; and

(B) assist schools in developing effective school library programs to provide students an opportunity to develop digital literacy skills and improve academic achievement.

(c) Assurances

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

(1) 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;

(2) 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;

(3) participate, if selected, in the National Assessment of Educational Progress in reading and mathematics in grades 4 and 8 carried out under section 9622(b)(3) of this title;

(4) coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as services for English learners, children with disabilities, migratory children, American Indian, Alaska Native, and Native Hawaiian children, and homeless children and youths, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(5) collaborate with the State or local child welfare agency to—

(A) designate a point of contact if the corresponding child welfare agency notifies the local educational agency, in writing, that the agency has designated an employee to serve as a point of contact for the local educational agency; and

(B) by not later than 1 year after December 10, 2015, develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care, which procedures shall—

(i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with section 675(4)(A) of title 42; and

(ii) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if—

(I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;

(II) the local educational agency agrees to pay for the cost of such transportation; or

(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation; and²

(6) ensure that all teachers and paraprofessionals working in a program supported with funds under this part meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification; and

(7) in the case of a local educational agency that chooses to use funds under this part to provide early childhood education services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)).

(d) Special rule

For local educational agencies using funds under this part for the purposes described in subsection (c)(7), the Secretary shall—

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

(2) disseminate to local educational agencies the education performance standards in effect under section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), and such agencies affected by such subsection (c)(7) shall plan to comply with such subsection (taking into consideration existing State and local laws, and local

teacher contracts), including by pursuing the availability of other Federal, State, and local funding sources to assist with such compliance.

(e) Parents right-to-know

(1) Information for parents

(A) In general

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 student's teacher—

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

(II) is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived; and

(III) is teaching in the field of discipline of the certification of the teacher.

(ii) 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 of a child who is a student in such school, with respect to such student—

(i) information on the level of achievement and academic growth of the student, if applicable and available, on each of the State academic assessments required under this part; and

(ii) timely notice that the student has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

(2) Testing transparency

(A) In general

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 local educational agency will provide the parents on request (and in a timely manner), information regarding any State or local educational agency policy regarding student participation in any assessments mandated by section 6311(b)(2) of this title and by the State or local educational agency, which shall include a policy, procedure, or parental right to opt the child out of such assessment, where applicable.

²So in original. The word "and" probably should not appear.

(B) Additional information

Subject to subparagraph (C), each local educational agency that receives funds under this part shall make widely available through public means (including by posting in a clear and easily accessible manner on the local educational agency's website and, where practicable, on the website of each school served by the local educational agency) for each grade served by the local educational agency, information on each assessment required by the State to comply with section 6311 of this title, other assessments required by the State, and where such information is available and feasible to report, assessments required districtwide by the local educational agency, including—

- (i) the subject matter assessed;
- (ii) the purpose for which the assessment is designed and used;
- (iii) the source of the requirement for the assessment; and
- (iv) where such information is available—
 - (I) the amount of time students will spend taking the assessment, and the schedule for the assessment; and
 - (II) the time and format for disseminating results.

(C) Local educational agency that does not operate a website

In the case of a local educational agency that does not operate a website, such local educational agency shall determine how to make the information described in subparagraph (A) widely available, such as through distribution of that information to the media, through public agencies, or directly to parents.

(3) Language instruction**(A) Notice**

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

- (i) the reasons for the identification of their child as an English learner and in need of placement in a language instruction educational program;
- (ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;
- (iii) the methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
- (iv) how the program in which their child is, or will be, participating will meet the educational strengths and needs of their child;

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

(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school (including four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates for such program) if funds under this part are used for children in high 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, as described in section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)); and

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

- (I) detailing the right that parents have to have their child immediately removed from such program upon their request;
- (II) detailing 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
- (III) assisting parents in selecting among various programs and methods of instruction, if more than 1 program or method is offered by the eligible entity.

(B) Special rule applicable during the school year

For those children who have not been identified as English learners prior to the beginning of the school year but are identified as English learners during such school year, the local educational agency shall notify the children's parents during the first 2 weeks of the child being placed in a language instruction educational program consistent with subparagraph (A).

(C) Parental participation**(i) In general**

Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of English learners to inform the parents regarding how the parents can—

- (I) be involved in the education of their children; and
- (II) be active participants in assisting their children to—
 - (aa) attain English proficiency;
 - (bb) achieve at high levels within a well-rounded education; and
 - (cc) meet the challenging State academic standards expected of all students.

(ii) Regular meetings

Implementing an effective means of outreach to parents under clause (i) shall include holding, and sending notice of opportunities for, regular meetings for the pur-

pose of formulating and responding to recommendations from parents of students assisted under this part or subchapter III.

(D) 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.

(4) Notice and format

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

(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; Pub. L. 114–95, title I, §1006, Dec. 10, 2015, 129 Stat. 1852.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, 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 Rehabilitation Act of 1973, referred to in subsec. (a)(1)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1)(B), 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 Workforce Innovation and Opportunity Act, referred to in subsec. (a)(1)(B), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of this title, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Head Start Act, referred to in subsec. (a)(1)(B), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, 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 McKinney-Vento Homeless Assistance Act, referred to in subsecs. (a)(1)(B) and (b)(6), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, 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 Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(B), is title II of Pub. L. 113–128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 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

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to local educational agency plan to help low-achieving children meet challenging academic achievement standards.

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”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 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

(A) Ranking

Except as provided in subparagraph (B), if funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(i) 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

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

(B) Exception

A local educational agency may lower the threshold in subparagraph (A)(i) to 50 percent for high schools served by such agency.

(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

(A) In general

Except as provided in subparagraph (B), a local educational agency shall use the same measure of poverty, which measure shall be the number of children aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for a free or reduced price lunch 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—

- (i) to identify eligible school attendance areas;
- (ii) to determine the ranking of each area; and
- (iii) to determine allocations under subsection (c).

(B) Secondary schools

For measuring the number of students in low-income families in secondary schools, the local educational agency shall use the same measure of poverty, which shall be—

- (i) the measure described under subparagraph (A); or
- (ii) subject to meeting the conditions of subparagraph (C), an accurate estimate of the number of students in low-income families in a secondary school that is calculated by applying the average percentage of students in low-income families of the elementary school attendance areas as calculated under subparagraph (A) that feed into the secondary school to the number of students enrolled in such school.

(C) Measure of poverty

The local educational agency shall have the option to use the measure of poverty described in subparagraph (B)(ii) after—

(i) conducting outreach to secondary schools within such agency to inform such schools of the option to use such measure; and

(ii) a majority of such schools have approved the use of such measure.

(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), 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), 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), 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 of funds

(A) In general

A local educational agency shall reserve such funds as are necessary under this part, determined in accordance with subparagraphs (B) and (C), to provide services comparable to those provided to children in schools funded under this part to serve—

- (i) homeless children and youths, including providing educationally related support services to children in shelters and other locations where children may live;
- (ii) children in local institutions for neglected children; and
- (iii) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day programs.

(B) Method of determination

The share of funds determined under subparagraph (A) shall be determined—

- (i) based on the total allocation received by the local educational agency; and
- (ii) prior to any allowable expenditures or transfers by the local educational agency.

(C) Homeless children and youths

Funds reserved under subparagraph (A)(i) may be—

(i) determined based on a needs assessment of homeless children and youths in the local educational agency, taking into consideration the number and needs of homeless children and youths in the local educational agency, and which needs assessment may be the same needs assessment as conducted under section 11433(b)(1) of title 42; and

(ii) used to provide homeless children and youths with services not ordinarily provided to other students under this part, including providing—

(I) funding for the liaison designated pursuant to section 11432(g)(1)(J)(ii) of title 42; and

(II) transportation pursuant to section 11432(g)(1)(J)(iii) of such title.

(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, 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 comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title for the purpose of attracting and retaining qualified and effective teachers.

(5) Early childhood education

A local educational agency may reserve funds made available to carry out this section to provide early childhood education programs for eligible children.

(Pub. L. 89–10, title I, §1113, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1469; amended Pub. L. 114–95, title I, §1007, Dec. 10, 2015, 129 Stat. 1859.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(5)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, 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)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. 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.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–95, §1007(1)(A), added par. (3) and struck out former par. (3). Prior to amend-

ment, text read as follows: “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.”

Subsec. (a)(5). Pub. L. 114–95, §1007(1)(B), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “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, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, 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.”

Subsec. (b)(1)(D)(i). Pub. L. 114–95, §1007(2), made technical amendment to reference in original act which appears in text as reference to section 6321(c) of this title.

Subsec. (c)(3). Pub. L. 114–95, §1007(3)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “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.”

Subsec. (c)(4). Pub. L. 114–95, §1007(3)(B), substituted “comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d)” for “school improvement, corrective action, and restructuring under section 6316(b)”.

Subsec. (c)(5). Pub. L. 114–95, §1007(3)(C), added par. (5).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6314. Schoolwide programs

(a) In general

(1) Use of funds for schoolwide programs

(A) Eligibility

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.

(B) Exception

A school that serves an eligible school attendance area in which less than 40 percent of the children are from low-income families, or a school for which less than 40 percent of the children enrolled in the school are from such families, may operate a schoolwide program under this section if the school receives a waiver from the State educational agency to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school served under this part in improving academic achievement and other factors.

(2) Identification of students not required

(A) In general

No school participating in a schoolwide program shall be required to identify—

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

(ii) individual services as supplementary.

(B) Supplemental funds

In accordance with the method of determination described in section 6321(b)(2) of this title, 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 English learners.

(3) Exemption from statutory and regulatory requirements

(A) Exemption

Except as provided in paragraph (2), 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, comparability of services, maintenance of effort, uses of Federal funds to supplement, not supplant non-Federal funds (in accordance with the method of determination described in section 6321(b)(2) of

this title), 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 chooses to consolidate and use 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.

(b) Schoolwide program plan

An eligible school operating a schoolwide program shall develop a comprehensive plan (or amend a plan for such a program that was in existence on the day before December 10, 2015) that—

(1) is developed during a 1-year period, unless—

(A) the local educational agency determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program; or

(B) the school is operating a schoolwide program on the day before December 10, 2015, 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;

(2) is 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, other school leaders, paraprofessionals present in the school, administrators (including administrators of programs described in other parts of this subchapter), the local educational agency, to the extent feasible, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, if the plan relates to a secondary school, students, and other individuals determined by the school;

(3) remains in effect for the duration of the school's participation under this part, except that the plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet the challenging State academic standards;

(4) is 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

(5) if appropriate and applicable, is developed in coordination and integration with other Federal, State, and local services, resources, and programs, such as programs supported under this chapter, violence prevention

programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title;

(6) is based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of children in relation to the challenging State academic standards, particularly the needs of those children who are failing, or are at-risk of failing, to meet the challenging State academic standards and any other factors as determined by the local educational agency; and

(7) includes a description of—

(A) the strategies that the school will be implementing to address school needs, including a description of how such strategies will—

(i) provide opportunities for all children, including each of the subgroups of students (as defined in section 6311(c)(2) of this title) to meet the challenging State academic standards;

(ii) use methods and instructional strategies that strengthen the academic program in the school, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum, which may include programs, activities, and courses necessary to provide a well-rounded education; and

(iii) address the needs of all children in the school, but particularly the needs of those at risk of not meeting the challenging State academic standards, through activities which may include—

(I) counseling, school-based mental health programs, specialized instructional support services, mentoring services, and other strategies to improve students' skills outside the academic subject areas;

(II) preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school (such as Advanced Placement, International Baccalaureate, dual or concurrent enrollment, or early college high schools);

(III) implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(IV) professional development and other activities for teachers, paraprofessionals, and other school personnel to improve instruction and use of data from academic assessments, and to recruit and retain effective teachers, particularly in high-need subjects; and

(V) strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs; and

(B) if programs are consolidated, the specific State educational agency and local educational agency programs and other Federal programs that will be consolidated in the schoolwide program.

(c) Preschool programs

A school that operates a schoolwide program under this section may use funds available under this part to establish or enhance preschool programs for children who are under 6 years of age.

(d) Delivery of services

The services of a schoolwide program under this section may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.

(e) Use of funds for dual or concurrent enrollment programs

(1) In general

A secondary school operating a schoolwide program under this section may use funds received under this part to operate dual or concurrent enrollment programs that address the needs of low-achieving secondary school students and those at risk of not meeting the challenging State academic standards.

(2) Flexibility of funds

A secondary school using funds received under this part for a dual or concurrent enrollment program described in paragraph (1) may use such funds for any of the costs associated with such program, including the costs of—

(A) training for teachers, and joint professional development for teachers in collaboration with career and technical educators and educators from institutions of higher education, where appropriate, for the purpose of integrating rigorous academics in such program;

(B) tuition and fees, books, required instructional materials for such program, and innovative delivery methods; and

(C) transportation to and from such program.

(3) Rule of construction

Nothing in this subsection shall be construed to impose on any State any requirement or rule regarding dual or concurrent enrollment programs that is inconsistent with State law.

(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; Pub. L. 114-95, title I, §1008, Dec. 10, 2015, 129 Stat. 1862.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(3)(A) and (b)(7)(A)(iii)(III), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, 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 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

2015—Subsec. (a). Pub. L. 114-95, §1008(1), added subsec. (a) and struck out former subsec. (a) which consisted of pars. (1) to (4) relating to general use of funds for schoolwide programs, nonidentification of students, exemption from statutory and regulatory requirements, and professional development.

Subsec. (b). Pub. L. 114-95, §1008(2), added subsec. (b) and struck out former subsec. (b) which consisted of pars. (1) and (2) relating to components of a schoolwide program and development of plan.

Subsecs. (c) to (e). Pub. L. 114-95, §1008(3), added subsecs. (c) to (e) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “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.”

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”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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, have not received a waiver under section 6314(a)(1)(B) of this title to operate such a schoolwide program, or 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 (c) identified as having the greatest need for special assistance.

(b) Targeted assistance school program

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 challenging State academic standards, each targeted assistance program under this section shall—

(1) determine which students will be served;

(2) serve participating students identified as eligible children under subsection (c), including by—

(A) using resources under this part to help eligible children meet the challenging State academic standards, which may include programs, activities, and academic courses necessary to provide a well-rounded education;

(B) using methods and instructional strategies to strengthen the academic program of the school through activities, which may include—

(i) expanded learning time, before- and after-school programs, and summer programs and opportunities; and

(ii) a schoolwide tiered model to prevent and address behavior problems, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(C) coordinating with and supporting the regular education program, which may include services to assist preschool children in the transition from early childhood education programs such as Head Start, the literacy program under subpart 2 of part B of subchapter II, or State-run preschool programs to elementary school programs;

(D) providing professional development with resources provided under this part, and, to the extent practicable, from other sources, to teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support personnel, and other school personnel who work with eligible children in programs under this section or in the regular education program;

(E) implementing strategies to increase the involvement of parents of eligible children in accordance with section 6318 of this title; and¹

(F) if appropriate and applicable, coordinating and integrating Federal, State, and local services and programs, such as programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title; and

(G) provide² to the local educational agency assurances that the school will—

(i) help provide an accelerated, high-quality curriculum;

(ii) minimize the removal of children from the regular classroom during regular school hours for instruction provided under this part; and

(iii) on an ongoing basis, review the progress of eligible children and revise the targeted assistance program under this section, if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards.

(c) 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 challenging State academic 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 criteria, including objective criteria, established by the local educational agency and supplemented by the school.

(2) Children included

(A) In general

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

(B) Head Start and preschool 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 program, the literacy program under subpart 2 of part B of subchapter II, or in preschool services under this subchapter, is eligible for services under this part.

(C) Migrant 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 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.

(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.

¹ So in original. The word “and” probably should not appear.

² So in original. Probably should be “providing”.

(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;

(iii) family support and engagement services;

(iv) integrated student supports; and

(v) professional development necessary to assist teachers, specialized instructional support personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(f) Use of funds for dual or concurrent enrollment programs

A secondary school operating a targeted assistance program under this section may use funds received under this part to provide dual or concurrent enrollment program services described under section 6314(e) of this title to eligible children under subsection (c)(1)(B) who are identified as having the greatest need for special assistance.

(g) Prohibition

Nothing in this section shall be construed to authorize the Secretary or any other officer or employee of the Federal Government to require a local educational agency or school to submit the results of a comprehensive needs assessment or plan under section 6314(b) of this title, or a program described in subsection (b), for review or approval by the Secretary.

(h) Delivery of services

The services of a targeted assistance program under this section may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.

(Pub. L. 89-10, title I, § 1115, as added Pub. L. 107-110, title I, § 101, Jan. 8, 2002, 115 Stat. 1475; amended Pub. L. 114-95, title I, § 1009, Dec. 10, 2015, 129 Stat. 1865.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B)(ii), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, 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 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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, § 1009(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “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.”

Subsec. (b). Pub. L. 114-95, § 1009(3), added subsec. (b) and struck out former subsec. (b). Prior to amendment, subsec. (b) consisted of pars. (1) and (2) relating to general components of a targeted assistance school program and coordination of resources and review and revision of program.

Pub. L. 114-95, § 1009(2), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114-95, § 1009(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1)(B). Pub. L. 114-95, § 1009(4)(A), substituted “the challenging State academic standards” for “the State’s challenging student academic achievement standards” and “criteria, including objective criteria, established by the local educational agency and supplemented by the school” for “such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures”.

Subsec. (c)(2)(A). Pub. L. 114-95, § 1009(4)(B)(i), substituted “English learners” for “limited English proficient children”.

Subsec. (c)(2)(B). Pub. L. 114-95, § 1009(4)(B)(ii), in heading, substituted “Head Start and preschool children” for “Head Start, Even Start, or Early Reading First children” and, in text, substituted “Head Start program, the literacy program under subpart 2 of part B of subchapter II,” for “Head Start, Even Start, or Early Reading First program.”

Subsec. (c)(2)(C). Pub. L. 114-95, § 1009(4)(B)(iii), substituted “Migrant children” for “Part C children” in heading.

Subsec. (e)(2)(B)(iii) to (v). Pub. L. 114-95, § 1009(5)(A), added cls. (iii) and (iv), redesignated former cl. (iii) as (v), and, in cl. (v), substituted “specialized instructional support” for “pupil services”.

Subsec. (e)(3). Pub. L. 114-95, § 1009(5)(B), struck out par. (3). Text read as follows: “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.”

Subsecs. (f) to (h). Pub. L. 114-95, § 1009(6), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§§ 6316, 6317. Repealed. Pub. L. 114-95, title I, § 1000(1), Dec. 10, 2015, 129 Stat. 1814

Section 6316, Pub. L. 89-10, title I, § 1116, as added Pub. L. 107-110, title I, § 101, Jan. 8, 2002, 115 Stat. 1478,

related to academic assessment and local educational agency and school improvement.

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.

Section 6317, 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, related to school support and recognition.

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.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 6318. Parent and family engagement

(a) Local educational agency policy

(1) In general

A local educational agency may receive funds under this part only if such agency conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents and family members 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 and family members of participating children a written parent and family engagement 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 and objectives for meaningful parent and family involvement, and describe how the agency will—

(A) involve parents and family members in jointly developing the local educational agency plan under section 6312 of this title, and the development of support and improvement plans under paragraphs (1) and (2) of section 6311(d) of this title.

(B) provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within the local educational agency in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;

(C) coordinate and integrate parent and family engagement strategies under this part with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant Federal, State, and local laws and programs;

(D) conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under this part, including identifying—

- (i) 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);
- (ii) the needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and
- (iii) strategies to support successful school and family interactions;

(E) use the findings of such evaluation in subparagraph (D) to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in this section; and

(F) involve parents in the activities of the schools served under this part, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by the local educational agency to adequately represent the needs of the population served by such agency for the purposes of developing, revising, and reviewing the parent and family engagement policy.

(3) Reservation

(A) In general

Each local educational agency shall reserve at least 1 percent of its allocation under subpart 2 to assist schools to carry out the activities described in this section, except that this subparagraph shall not apply if 1 percent of such agency's allocation under subpart 2 for the fiscal year for which the determination is made is \$5,000 or less. Nothing in this subparagraph shall be construed to limit local educational agencies from reserving more than 1 percent of its allocation under subpart 2 to assist schools to carry out activities described in this section.

(B) Parent and family member input

Parents and family members 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 90 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part, with priority given to high-need schools.

(D) Use of funds

Funds reserved under subparagraph (A) by a local educational agency shall be used to carry out activities and strategies consistent with the local educational agency's parent and family engagement policy, including not less than 1 of the following:

(i) Supporting schools and nonprofit organizations in providing professional development for local educational agency and school personnel regarding parent and family engagement strategies, which may be provided jointly to teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, early childhood educators, and parents and family members.

(ii) Supporting programs that reach parents and family members at home, in the community, and at school.

(iii) Disseminating information on best practices focused on parent and family engagement, especially best practices for increasing the engagement of economically disadvantaged parents and family members.

(iv) Collaborating, or providing subgrants to schools to enable such schools to collaborate, with community-based or other organizations or employers with a record of success in improving and increasing parent and family engagement.

(v) Engaging in any other activities and strategies that the local educational agency determines are appropriate and consistent with such agency's parent and family engagement policy.

(b) School parent and family engagement policy**(1) In general**

Each school served under this part shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). 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 parent and family engagement policy that applies to all parents and family members, 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 parent and family engagement policy that applies to all parents and family members in all schools served by the local educational agency, 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 participat-

ing 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 parent and family engagement policy and the joint development of the schoolwide program plan under section 6314(b) of this title, except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this part;

(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging State academic standards; 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) 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 parent and family engagement policy developed under subsection (b), 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 instruc-

tion in a supportive and effective learning environment that enables the children served under this part to meet the challenging State academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extra-curricular time; and

(2) address the importance of communication between teachers and parents on an on-going 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;

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

(D) ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand.

(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 challenging State academic standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology (including education about the harms of copyright piracy), as appropriate, to foster parental involvement;

(3) shall educate teachers, specialized instructional support personnel, principals, and other school leaders, 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 other Federal, State, and local programs, including public preschool 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 parent and family engagement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members 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) Family engagement in education programs

In a State operating a program under part E of subchapter IV, each local educational agency or school that receives assistance under this part shall inform parents and organizations of the existence of the program.

(h) Review

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

(Pub. L. 89-10, title I, §1116, formerly §1118, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002,

115 Stat. 1501; renumbered § 1116 and amended Pub. L. 114-95, title I, §§ 1000(2), 1010, Dec. 10, 2015, 129 Stat. 1814, 1868.)

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.

A prior section 1116 of Pub. L. 89-10 was classified to section 6316 of this title, prior to repeal by Pub. L. 114-95.

Another 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.

AMENDMENTS

2015—Pub. L. 114-95, § 1010(1), substituted “Parent and family engagement” for “Parental involvement” in section catchline.

Subsec. (a)(1). Pub. L. 114-95, § 1010(2)(A), inserted “conducts outreach to all parents and family members and” after “only if such agency” and “and family members” after “and procedures for the involvement of parents”.

Subsec. (a)(2). Pub. L. 114-95, § 1010(2)(B)(ii), added subpars. (A) to (F) and struck out former subpars. (A) to (F) which related to description of how the agency would involve parents in development of plan, provide support in implementing parent involvement activities, build capacity for strong parental involvement, integrate parental involvement strategies under this part with strategies under other programs, conduct an annual evaluation of effectiveness of parental involvement policy, and involve parents in the activities of schools served under this part.

Pub. L. 114-95, § 1010(2)(B)(i), in introductory provisions, substituted “parents and family members” for “parents”, “written parent and family engagement policy” for “written parent involvement policy”, and “expectations and objectives for meaningful parent and family involvement” for “expectations for parent involvement”.

Subsec. (a)(3)(A). Pub. L. 114-95, § 1010(2)(C)(i), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “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.”

Subsec. (a)(3)(B). Pub. L. 114-95, § 1010(2)(C)(ii), substituted “Parent and family member input” for “Parental input” in heading and “Parents and family members of children” for “Parents of children” in text.

Subsec. (a)(3)(C). Pub. L. 114-95, § 1010(2)(C)(iii), substituted “90 percent” for “95 percent” and inserted “, with priority given to high-need schools” after “schools served under this part”.

Subsec. (a)(3)(D). Pub. L. 114-95, § 1010(2)(C)(iv), added subpar. (D).

Subsec. (b). Pub. L. 114-95, § 1010(3)(A), substituted “parent and family engagement policy” for “parental involvement policy” in heading.

Subsec. (b)(1). Pub. L. 114-95, § 1010(3)(B), substituted “parents and family members of participating children” for “parents of participating children” and “written parent and family engagement policy” for “written parental involvement policy”.

Subsec. (b)(2). Pub. L. 114-95, § 1010(3)(C), substituted “parent and family engagement policy” for “parental involvement policy” and “parents and family members” for “parents”.

Subsec. (b)(3). Pub. L. 114-95, § 1010(3)(D), substituted “parent and family engagement policy that applies to all parents and family members in all schools served by

the local educational agency” for “parental involvement policy that applies to all parents”.

Subsec. (c)(3). Pub. L. 114-95, § 1010(4)(A), substituted “parent and family engagement policy” for “parental involvement policy” and “6314(b)” for “6314(b)(2)”.

Subsec. (c)(4)(B). Pub. L. 114-95, § 1010(4)(B), substituted “the achievement levels of the challenging State academic standards” for “the proficiency levels students are expected to meet”.

Subsec. (c)(5). Pub. L. 114-95, § 1010(4)(C), substituted “6314(b)” for “6314(b)(2)”.

Subsec. (d). Pub. L. 114-95, § 1010(5)(A), substituted “parent and family engagement policy” for “parental involvement policy” in introductory provisions.

Subsec. (d)(1). Pub. L. 114-95, § 1010(5)(B), substituted “the challenging State academic standards” for “the State’s student academic achievement standards” and struck out “, such as monitoring attendance, homework completion, and television watching” after “children’s learning”.

Subsec. (d)(2)(D). Pub. L. 114-95, § 1010(5)(C), added subpar. (D).

Subsec. (e)(1). Pub. L. 114-95, § 1010(6)(A), substituted “the challenging State academic standards” for “the State’s academic content standards and State student academic achievement standards”.

Subsec. (e)(2). Pub. L. 114-95, § 1010(6)(B), inserted “(including education about the harms of copyright piracy)” after “technology”.

Subsec. (e)(3). Pub. L. 114-95, § 1010(6)(C), substituted “specialized instructional support personnel, principals, and other school leaders” for “pupil services personnel, principals”.

Subsec. (e)(4). Pub. L. 114-95, § 1010(6)(D), substituted “other Federal, State, and local programs, including public preschool programs,” for “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,”.

Subsec. (f). Pub. L. 114-95, § 1010(7), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “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.”

Subsec. (g). Pub. L. 114-95, § 1010(8), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: “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.”

Subsec. (h). Pub. L. 114-95, § 1010(9), substituted “parent and family engagement policies” for “parental involvement policies”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6319. Repealed. Pub. L. 114-95, title I, § 1000(1), Dec. 10, 2015, 129 Stat. 1814

Section, Pub. L. 89-10, title I, § 1119, as added Pub. L. 107-110, title I, § 101, Jan. 8, 2002, 115 Stat. 1505, related to qualifications for teachers and paraprofessionals.

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.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 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(c) 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—

(A) after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis and individually or in combination, as requested by the officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under this part (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

(B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to section 6318 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

(A) In general

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.

(B) Ombudsman

To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this part.

(4) Expenditures

(A) Determination

(i) In general

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.

(ii) Proportional share

The proportional share of funds shall be determined based on the total amount of funds received by the local educational agency under this part prior to any allowable expenditures or transfers by the local educational agency.

(B) Obligation of funds

Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(C) Notice of allocation

Each State educational agency shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this part that the local educational agencies have determined are available for eligible private school children.

(D) Term of determination

The local educational agency may determine the equitable share under subparagraph (A) each year or every 2 years.

(5) Provision of services

The local educational agency, or, in a case described in subsection (b)(6)(C), the State educational agency involved, 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. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process shall include consultation 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, the proportion of funds that is allocated under subsection (a)(4)(A) for such services, and how that proportion of funds is determined;

(F) the method or sources of data that are used under subsection (c) 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;

(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;

(I) whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor;

(J) whether to provide equitable services to eligible private school children—

(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools;

(K) when, including the approximate time of day, services will be provided; and

(L) whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 7881(b)(1) of this title¹ to provide services to eligible private school children participating in programs.

(2) Disagreement

If a local educational agency disagrees with the views of private school officials with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials the reasons why the local educational agency disagrees.

(3) 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.

(4) 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.

(5) 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 meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. 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, or attempts at such consultation have, taken place to the State educational agency.

(6) Compliance

(A) In general

A private school official shall have the right to file a complaint with the State educational agency asserting that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school students equitably as required by this section.

(B) Procedure

If the private school official wishes to file a complaint, 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) State educational agencies

A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, or institutions, if the appropriate private school officials have—

(i) requested that the State educational agency provide such services directly; and

(ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by 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—

¹ So in original. A comma probably should appear.

(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.

(d) Public control of funds

(1) In general

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

(2) Provision of services

(A) Provider

The provision of services under this section shall be provided—

- (i) by employees of a public agency; or
- (ii) through contract by such public agency with an individual, association, agency, or organization.

(B) Requirement

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

(e) Standards for a bypass

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

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

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

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

(Pub. L. 89-10, title I, §1117, formerly §1120, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002,

115 Stat. 1508; renumbered §1117 and amended Pub. L. 114-95, title I, §§1000(3), 1011, Dec. 10, 2015, 129 Stat. 1814, 1871.)

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 1117 of Pub. L. 89-10 was classified to section 6317 of this title, prior to repeal by Pub. L. 114-95.

Another 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

2015—Subsec. (a)(1). Pub. L. 114-95, §1011(1)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “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.”

Subsec. (a)(3). Pub. L. 114-95, §1011(1)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “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.”

Subsec. (a)(4). Pub. L. 114-95, §1011(1)(C), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “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.”

Subsec. (a)(5). Pub. L. 114-95, §1011(1)(D), inserted “, or, in a case described in subsection (b)(6)(C), the State educational agency involved,” after “local educational agency”.

Subsec. (b)(1). Pub. L. 114-95, §1011(2)(A)(i), in introductory provisions, substituted “part. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process shall include consultation on issues such as—” for “part, on issues such as—”.

Subsec. (b)(1)(E). Pub. L. 114-95, §1011(2)(A)(ii), struck out “and” before “the proportion of funds”, substituted “(a)(4)(A)” for “(a)(4)”, and inserted “, and how that proportion of funds is determined” before semicolon at end.

Subsec. (b)(1)(I) to (L). Pub. L. 114-95, §1011(2)(A)(iii)-(v), added subpars. (I) to (L).

Subsec. (b)(2) to (4). Pub. L. 114-95, §1011(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 114-95, §1011(2)(B), (D), redesignated par. (4) as (5), inserted “meaningful” before “consultation” in first sentence, inserted second sentence,

and substituted “such consultation has, or attempts at such consultation have, taken place” for “such consultation has taken place” in last sentence. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 114-95, § 1011(2)(B), redesignated par. (5) as (6).

Subsec. (b)(6)(A). Pub. L. 114-95, § 1011(2)(E)(i), substituted “right to file a complaint with” for “right to complain to”, inserted “asserting” after “State educational agency”, struck out “or” before “did not give due consideration”, and inserted “, or did not make a decision that treats the private school students equitably as required by this section” before period at end.

Subsec. (b)(6)(B). Pub. L. 114-95, § 1011(2)(E)(ii), substituted “wishes to file a complaint,” for “wishes to complain.”

Subsec. (b)(6)(C). Pub. L. 114-95, § 1011(2)(E)(iii), added subpar. (C).

Subsec. (c)(2). Pub. L. 114-95, § 1011(3), made technical amendment to reference in original act which appears in text as reference to section 7883 of this title.

Subsec. (e)(2). Pub. L. 114-95, § 1011(4), made technical amendment to reference in original act which appears in text as reference to sections 7883 and 7884 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 State and local sources for the education of students participating in programs assisted under this part, and not to supplant such funds.

(2) Compliance

To demonstrate compliance with paragraph (1), a local educational agency shall demonstrate that the methodology used to allocate State and local funds to each school receiving assistance under this part ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving assistance under this part.

(3) Special rule

No local educational agency shall be required to—

(A) identify that an individual cost or service supported under this part is supplemental; or

(B) 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).

(4) Prohibition

Nothing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this part.

(5) Timeline

A local educational agency—

(A) shall meet the compliance requirement under paragraph (2) not later than 2 years after December 10, 2015; and

(B) may demonstrate compliance with the requirement under paragraph (1) before the end of such 2-year period using the method such local educational agency used on the day before December 10, 2015.

(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 en-

rollment 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), 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, §1118, formerly §1120A, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1511; renumbered §1118 and amended Pub. L. 114-95, title I, §§1000(4), 1012, Dec. 10, 2015, 129 Stat. 1814, 1874.)

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.

A prior section 1118 of Pub. L. 89-10 was renumbered section 1116 and is classified to section 6318 of this title.

Another 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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §1012(1), made technical amendment to reference in original act which appears in text as reference to section 7901 of this title.

Subsec. (b). Pub. L. 114-95, §1012(2), added subsec. (b) and struck out former subsec. (b) which consisted of pars. (1) and (2) relating to general use of funds only to supplement and not to supplant non-Federal funds and special rule that no local educational agency be required to provide services through a particular instructional method or in a particular instructional setting.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6322. Coordination requirements

(a) In general

Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) with Head Start agencies and, if feasible, other entities carrying out early childhood development programs. Each local educational agency shall develop agreements with such Head Start agencies and other entities to carry out such activities.

(b) Activities

The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood education programs 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 education 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 education programs, as appropriate, to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood education programs, 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, and, where appropriate, other early childhood education program staff; and

(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies.

(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, §1119, formerly §1120B, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1512; renumbered §1119 and amended Pub. L. 114-95, title I, §§1000(5), 1013, Dec. 10, 2015, 129 Stat. 1814, 1875.)

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 1119 of Pub. L. 89-10 was classified to section 6319 of this title, prior to repeal by Pub. L. 114-95.

Another prior section 1119 of Pub. L. 89-10 was classified to section 6320 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §1013(1), struck out “such as the Early Reading First program” after “early childhood development programs” and inserted at end “Each local educational agency shall develop agreements with such Head Start agencies and other entities to carry out such activities.”

Subsec. (b). Pub. L. 114-95, §1013(2)(A), substituted “early childhood education programs” for “early childhood development programs, such as the Early Reading First program,” in introductory provisions.

Subsec. (b)(1). Pub. L. 114-95, §1013(2)(B), substituted “early childhood education program” for “early childhood development program such as the Early Reading First program”.

Subsec. (b)(2), (3). Pub. L. 114-95, §1013(2)(C), (D), substituted “early childhood education programs” for “early childhood development programs such as the Early Reading First program”.

Subsec. (b)(4). Pub. L. 114-95, §1013(2)(E), struck out “Early Reading First program staff,” after “Head Start program staff,” and substituted “early childhood education program staff” for “early childhood development program staff”.

Subsec. (b)(5). Pub. L. 114-95, §1013(2)(F), struck out “and entities carrying out Early Reading First programs” after “Head Start agencies”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

SUBPART 2—ALLOCATIONS

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

(a) Reservation of funds

Subject to subsection (e), from the amount appropriated for payments to States for any fiscal year under section 6302(a) of this title, the Secretary shall—

(1) reserve 0.4 percent to provide assistance to the outlying areas in accordance with subsection (b); and

(2) reserve 0.7 percent to provide assistance to the Secretary of the Interior in accordance with subsection (d).

(b) Assistance to outlying areas

(1) Funds reserved

From the amount made available for any fiscal year under subsection (a)(1), the Secretary shall—

(A) first reserve \$1,000,000 for the Republic of Palau, until Palau enters into an agree-

ment for extension of United States educational assistance under the Compact of Free Association, and subject to such terms and conditions as the Secretary may establish, except that Public Law 95-134, permitting the consolidation of grants, shall not apply; and

(B) use the remaining funds to award grants to the outlying areas in accordance with paragraphs (2) through (5).

(2) Amount of grants

The Secretary shall allocate the amount available under paragraph (1)(B) to the outlying areas in proportion to their relative numbers of children, aged 5 to 17, inclusive, from families below the poverty level, on the basis of the most recent satisfactory data available from the Department of Commerce.

(3) Hold-harmless amounts

For each fiscal year, the amount made available to each outlying area under this subsection shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted under paragraph (2) is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the outlying area;

(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) Ratable reductions

If the amount made available under paragraph (1)(B) for any fiscal year is insufficient to pay the full amounts that the outlying areas are eligible to receive under paragraphs (2) and (3) for that fiscal year, the Secretary shall ratably reduce those amounts.

(5) Uses

Grant funds awarded under paragraph (1)(A) may be used only—

(A) for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

(B) to provide direct educational services that assist all students with meeting the challenging State academic standards.

(c) Definitions

For the purpose of this section, 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) for any fiscal year shall be used, in accordance with such criteria as the Secretary may establish, to meet the unique 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), 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.

(e) Limitation on applicability

If, by reason of the application of subsection (a) for any fiscal year, the total amount available for allocation to all States under this part would be less than the amount allocated to all States for fiscal year 2016 under this part, the Secretary shall provide assistance to the outlying areas and the Secretary of the Interior in accordance with this section, as in effect on the day before December 10, 2015.

(Pub. L. 89-10, title I, §1121, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1513; amended Pub. L. 114-95, title I, §1014, Dec. 10, 2015, 129 Stat. 1876.)

REFERENCES IN TEXT

Public Law 95-134, referred to in subsec. (b)(1)(A), is Pub. L. 95-134, Oct. 15, 1977, 91 Stat. 1159. 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.

AMENDMENTS

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to reservation of one percent of funds for assistance to outlying areas and the Secretary of the Interior, grants to outlying areas, definitions, and allotment to the Secretary of the Interior to meet special educational needs of Indian children.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 2017-2020 (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 total amount made available under this subsection for the current fiscal year for which the determination is made exceeds the total amount available to carry out sections 6333 and 6334 of this title for fiscal year 2001 shall be used to carry out sections 6335 and 6337 of this title and such amount shall be divided equally between sections 6335 and 6337 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) 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) 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; amended Pub. L. 114-95, title I, §1015, Dec. 10, 2015, 129 Stat. 1878.)

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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §1015(1), substituted "2017-2020" for "2002-2007" in introductory provisions.

Subsec. (a)(3). Pub. L. 114-95, §1015(2), added par. (3) and struck out former par. (3) which read as follows: "an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sec-

tions 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."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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); 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) 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).

(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) 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) 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) 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 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) 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 chap-

ter 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); 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), 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), 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); 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) 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 to local educational agencies in fiscal years after fiscal year 2001

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; amended Pub. L. 114-95, title I, §1016, Dec. 10, 2015, 129 Stat. 1878.)

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.

AMENDMENTS

2015—Pub. L. 114-95, in section catchline, struck out “of targeted grants” after “Adequacy of funding” and,

in text, struck out subsec. (a), which set forth Congressional findings, and struck out subsec. (b) designation and heading before “Pursuant”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6337. Education finance incentive grant program

(a) Grants

From funds made available under section 6332(a) of this title the Secretary is authorized to make grants to States, from allotments under subsection (b), 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 made available for any fiscal year to carry out 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 the total amount reserved under section 6332(a) of this title to carry out this section; 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 determined 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—

(1) 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),¹ is at least 10; and

(2) 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),¹ 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) 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 1.75;

¹ So in original. This subsec. does not contain a par. (3).

(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;

(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) 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) 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

A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that the State's fiscal effort per student or the aggregate expenditures of the State with respect to the provision of free public education by the State for the preceding fiscal year was not less than 90 percent of the fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of paragraph (2).

(2) Reduction in case of failure to meet

(A) In general

The Secretary shall reduce the amount of the allotment of funds under this section for any fiscal year in the exact proportion by which a State fails to meet the requirement 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), if such State has also failed to meet such requirement (as determined using the measure most favorable to the State) for 1 or more of the 5 immediately preceding fiscal years.

(B) Special rule

No such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waiver

The Secretary may waive the requirements of this subsection if the Secretary determines that a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances, such as a natural disaster or a change in the organizational structure of the State; or

(B) a precipitous decline in the financial resources of the State.

(f) 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 to carry out 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; amended Pub. L. 114-95, title I, §1017, Dec. 10, 2015, 129 Stat. 1878.)

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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §1017(1), substituted “funds made available under section 6332(a) of this

title” for “funds appropriated under subsection (f) of this section”.

Subsec. (b)(1)(A). Pub. L. 114-95, §1017(2)(A), substituted “funds made available for any fiscal year to carry out this section” for “funds appropriated pursuant to subsection (f) of this section” in introductory provisions.

Subsec. (b)(1)(B)(i). Pub. L. 114-95, §1017(2)(B), substituted “the total amount reserved under section 6332(a) of this title to carry out this section” for “total appropriations”.

Subsec. (c). Pub. L. 114-95, §1017(3), redesignated pars. (A) and (B) as (1) and (2), respectively.

Subsec. (d)(1)(A)(ii). Pub. L. 114-95, §1017(4), struck out opening quotation marks before “(i)” in introductory provisions.

Subsec. (e). Pub. L. 114-95, §1017(5), added subsec. (e) and struck out former subsec. (e) which related to general rule for full allotment of funds, reduction of funds in any fiscal year where State fails to meet requirements, and equitable waiver of requirements for 1 fiscal year only.

Subsec. (f). Pub. L. 114-95, §1017(6), (7), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “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.”

Subsec. (f)(1). Pub. L. 114-95, §1017(8)(A), substituted “to carry out this section” for “under this section”.

Subsec. (f)(3). Pub. L. 114-95, §1017(8)(B), substituted “shall be—” for “shall be” in introductory provisions.

Subsec. (g). Pub. L. 114-95, §1017(7), redesignated subsec. (g) as (f).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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.

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) 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) 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—STATE ASSESSMENT GRANTS

CODIFICATION

Part B of title I of the Elementary and Secondary Education Act of 1965, comprising this part, was originally enacted in the general amendment of title I of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, and amended by Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 11;

Pub. L. 110-154, Dec. 21, 2007, 121 Stat. 1826; Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Part B is shown herein, however, as having been added by Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879, without reference to those intervening amendments because of the extensive revision of part B by Pub. L. 114-95. See Codification note preceding section 6301 of this title.

§ 6361. Grants for State assessments and related activities

(a) Grants authorized

From amounts made available in accordance with section 6363 of this title, the Secretary shall make grants to State educational agencies to enable the States to carry out 1 or more of the following:

(1) To pay the costs of the development of the State assessments and standards adopted under section 6311(b) of this title, which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State.

(2) If a State has developed the assessments adopted under section 6311(b) of this title, to administer those assessments or to carry out other assessment activities described in this part, such as the following:

(A) Ensuring the provision of appropriate accommodations available to English learners and children with disabilities to improve the rates of inclusion in regular assessments of such children, including professional development activities to improve the implementation of such accommodations in instructional practice.

(B) Developing challenging State academic standards and aligned assessments in academic subjects for which standards and assessments are not required under section 6311(b) of this title.

(C) Developing or improving assessments for English learners, including assessments of English language proficiency as required under section 6311(b)(2)(G) of this title and academic assessments in languages other than English to meet the State's obligations under section 6311(b)(2)(F) of this title.

(D) Ensuring the continued validity and reliability of State assessments.

(E) Refining State assessments to ensure their continued alignment with the challenging State academic standards and to improve the alignment of curricula and instructional materials.

(F) Developing or improving balanced assessment systems that include summative, interim, and formative assessments, including supporting local educational agencies in developing or improving such assessments.

(G) At the discretion of the State, refining science assessments required under section 6311(b)(2) of this title in order to integrate engineering design skills and practices into such assessments.

(H) Developing or improving models to measure and assess student progress or student growth on State assessments under section 6311(b)(2) of this title and other assessments not required under section 6311(b)(2) of this title.

(I) Developing or improving assessments for children with disabilities, including al-

ternate assessments aligned to alternate academic achievement standards for students with the most significant cognitive disabilities described in section 6311(b)(2)(D) of this title, and using the principles of universal design for learning.

(J) Allowing for collaboration with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 6311(b)(2) of this title.

(K) Measuring student academic achievement using multiple measures of student academic achievement from multiple sources.

(L) Evaluating student academic achievement through the development of comprehensive academic assessment instruments (such as performance and technology-based academic assessments, computer adaptive assessments, projects, or extended performance task assessments) that emphasize the mastery of standards and aligned competencies in a competency-based education model.

(M) Designing the report cards and reports under section 6311(h) of this title in an easily accessible, user friendly-manner that cross-tabulates student information by any category the State determines appropriate, as long as such cross-tabulation—

(i) does not reveal personally identifiable information about an individual student; and

(ii) is derived from existing State and local reporting requirements.

(b) Rule of construction

Nothing in subsection (a)(2)(M) shall be construed as authorizing, requiring, or allowing any additional reporting requirements, data elements, or information to be reported to the Secretary unless such reporting, data, or information is explicitly authorized under this chapter.

(c) Annual report

Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing the State's activities under the grant and the result of such activities.

(Pub. L. 89-10, title I, §1201, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879.)

PRIOR PROVISIONS

A prior section 6361, Pub. L. 89-10, title I, §1201, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, stated purpose of former subpart 1 of this part, prior to the general amendment of this part by Pub. L. 114-95.

Another 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.

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.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 6362. State option to conduct assessment system audit

(a) In general

From the amount reserved under section 6363(a)(3) of this title for a fiscal year, the Secretary shall make grants to States to enable the States to—

(1) in the case of a grant awarded under this section to a State for the first time—

(A) audit State assessment systems and ensure that local educational agencies audit local assessments under subsection (e)(1);

(B) execute the State plan under subsection (e)(3)(D); and

(C) award subgrants under subsection (f); and

(2) in the case of a grant awarded under this section to a State that has previously received a grant under this section—

(A) execute the State plan under subsection (e)(3)(D); and

(B) award subgrants under subsection (f).

(b) Minimum amount

Each State that receives a grant under this section shall receive an annual grant amount of not less than \$1,500,000.

(c) Reallocation

If a State chooses not to apply for a grant under this section, the Secretary shall reallocate such grant amount to other States in accordance with the formula described in section 6363(a)(4)(B) of this title.

(d) Application

A State desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall require. The application shall include a description of—

(1) in the case of a State that is receiving a grant under this section for the first time—

(A) the audit the State will carry out under subsection (e)(1); and

(B) the stakeholder feedback the State will seek in designing such audit;

(2) in the case of a State that is not receiving a grant under this section for the first time, the plan described in subsection (e)(3)(D); and

(3) how the State will award subgrants to local educational agencies under subsection (f).

(e) Audits of State assessment systems and local assessments

(1) Audit requirements

Not later than 1 year after the date a State receives an initial grant under this section, the State shall—

(A) conduct a State assessment system audit as described in paragraph (3);

(B) ensure that each local educational agency receiving funds under this section—

(i) conducts an audit of local assessments administered by the local educational agency as described in paragraph (4); and

(ii) submits the results of such audit to the State; and

(C) report the results of each State and local educational agency audit conducted under subparagraphs (A) and (B), in a format that is widely accessible and publicly available.

(2) Resources for local educational agencies

In carrying out paragraph (1)(B), each State shall provide local educational agencies with resources, such as guidelines and protocols, to assist in conducting and reporting audit results.

(3) State assessment system description

Each State assessment system audit conducted under paragraph (1)(A) shall include—

(A) the schedule for the administration of all State assessments;

(B) for each State assessment—

(i) the purpose for which the assessment was designed and the purpose for which the assessment is used; and

(ii) the legal authority for the administration of the assessment;

(C) feedback on such system from stakeholders, which shall include information such as—

(i) how teachers, principals, other school leaders, and administrators use assessment data to improve and differentiate instruction;

(ii) the timing of release of assessment data;

(iii) the extent to which assessment data is presented in an accessible and understandable format for all stakeholders;

(iv) the opportunities, resources, and training teachers, principals, other school leaders, and administrators are given to review assessment results and make effective use of assessment data;

(v) the distribution of technological resources and personnel necessary to administer assessments;

(vi) the amount of time teachers spend on assessment preparation and administration;

(vii) the assessments that administrators, teachers, principals, other school leaders, parents, and students, if appropriate, do and do not find useful; and

(viii) other information as appropriate; and

(D) a plan, based on the information gathered as a result of the activities described in subparagraphs (A), (B), and (C), to improve and streamline the State assessment system, including activities such as—

(i) eliminating any unnecessary assessments, which may include paying the cost associated with terminating procurement contracts;

(ii) supporting the dissemination of best practices from local educational agencies

or other States that have successfully improved assessment quality and efficiency to improve teaching and learning; and

(iii) supporting local educational agencies or consortia of local educational agencies to carry out efforts to streamline local assessment systems and implement a regular process of review and evaluation of assessment use in local educational agencies.

(4) Local assessment description

An audit of local assessments conducted in accordance with paragraph (1)(B)(i) shall include the same information described in paragraph (3) that is required of a State audit, except that such information shall be included as applicable to the local educational agency and the local assessments.

(f) Subgrants to local educational agencies

(1) In general

Each State shall reserve not less than 20 percent of the grant funds awarded to the State under this section to make subgrants to local educational agencies in the State or consortia of such local educational agencies, based on demonstrated need in the agency's or consortium's application, to enable such agencies or consortia to improve assessment quality and use, and alignment, including, if applicable, alignment to the challenging State academic standards.

(2) Local educational agency application

Each local educational agency, or consortium of local educational agencies, seeking a subgrant under this subsection shall submit an application to the State at such time, in such manner, and containing such other information as determined necessary by the State. The application shall include a description of the agency's or consortium's needs relating to the improvement of assessment quality, use, and alignment.

(3) Use of funds

A subgrant awarded under this subsection to a local educational agency or consortium of such agencies may be used to—

(A) conduct an audit of local assessments under subsection (e)(1)(B)(i);

(B) carry out the plan described in subsection (e)(3)(D) as it pertains to such agency or consortium;

(C) improve assessment delivery systems and schedules, including by increasing access to technology and assessment proctors, where appropriate;

(D) hire instructional coaches, or promote teachers who may receive increased compensation to serve as instructional coaches, to support teachers in the development of classroom-based assessments, interpreting assessment data, and designing instruction;

(E) provide for appropriate accommodations to maximize inclusion of children with disabilities and English learners participating in assessments; and

(F) improve the capacity of teachers, principals, and other school leaders to disseminate assessment data in an accessible and

understandable format for parents and families, including for children with disabilities and English learners.

(g) Definitions

In this section:

(1) Local assessment

The term “local assessment” means an academic assessment selected and carried out by a local educational agency that is separate from an assessment required under section 6311(b)(2) of this title.

(2) State

The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, §1202, as added Pub. L. 114–95, title I, §1201, Dec. 10, 2015, 129 Stat. 1881.)

PRIOR PROVISIONS

A prior section 6362, 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, authorized formula grants to State educational agencies, prior to the general amendment of this part by Pub. L. 114–95.

Another 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.

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.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 6363. Allotment of appropriated funds

(a) Amounts equal to or less than trigger amount

From amounts made available for each fiscal year under subsection¹ 6302(b) of this title that are equal to or less than the amount described in section 6311(b)(2)(I) of this title, the Secretary shall—

(1) reserve one-half of 1 percent for the Bureau of Indian Education;

(2) reserve one-half of 1 percent for the outlying areas;

(3) reserve not more than 20 percent to carry out section 6362 of this title; and

(4) from the remainder, carry out section 6361 of this title by allocating to each State an amount equal to—

(A) \$3,000,000, except for a fiscal year for which the amounts available are insufficient to allocate such amount to each State, the Secretary shall ratably reduce such amount for each State; and

(B) with respect to any amounts remaining after the allocation under subparagraph (A),

¹ So in original. Probably should be “section”.

an amount that bears the same relationship to such total remaining amounts as the number of students aged 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(b) Amounts above trigger amount

For any fiscal year for which the amount made available for a fiscal year under subsection¹ 6302(b) of this title exceeds the amount described in section 6311(b)(2)(I) of this title, the Secretary shall make such excess amount available as follows:

(1) Competitive grants

(A) In general

The Secretary shall first use such funds to award grants, on a competitive basis, to State educational agencies or consortia of State educational agencies that have submitted applications described in subparagraph (B) to enable such States to carry out the activities described in subparagraphs (C), (H), (I), (J), (K), and (L) of section 6361(a)(2) of this title.

(B) Applications

A State, or a consortium of States, that desires a competitive grant under subparagraph (A) shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall demonstrate that the requirements of this section will be met for the uses of funds described under subparagraph (A).

(C) Amount of competitive grants

In determining the amount of a grant under subparagraph (A), the Secretary shall ensure that a State or consortium's grant, as the case may be, shall include an amount that bears the same relationship to the total funds available to carry out this subsection for the fiscal year as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in each State that comprises the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(2) Allotments

Any amounts remaining after the Secretary awards funds under paragraph (1) shall be allotted to each State, or consortium of States, that did not receive a grant under such paragraph, in an amount that bears the same relationship to the remaining amounts as the number of students aged 5 through 17 in the State, or, in the case of a consortium, in the States of the consortium, (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(c) State defined

In this part, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Prohibition

In making funds available to States under this part, the Secretary shall comply with the prohibitions described in section 7909 of this title.

(Pub. L. 89-10, title I, §1203, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1884.)

PRIOR PROVISIONS

A prior section 6363, 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; Pub. L. 113-128, title V, §512(i)(1), July 22, 2014, 128 Stat. 1708, related to applications for State formula grants, prior to the general amendment of this part by Pub. L. 114-95.

Another 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.

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.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

§ 6364. Innovative assessment and accountability demonstration authority

(a) Innovative assessment system defined

The term "innovative assessment system" means a system of assessments that may include—

(1) competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, or performance-based assessments that combine into an annual summative determination for a student, which may be administered through computer adaptive assessments; and

(2) assessments that validate when students are ready to demonstrate mastery or proficiency and allow for differentiated student support based on individual learning needs.

(b) Demonstration authority

(1) In general

The Secretary may provide a State educational agency, or a consortium of State educational agencies, in accordance with paragraph (3), with the authority to establish an innovative assessment system (referred to in this section as "demonstration authority").

(2) Demonstration period

In accordance with the requirements described in subsection (e), each State educational agency, or consortium of State educational agencies, that submits an application under this section shall propose in its application the period of time over which the State educational agency or consortium desires to exercise the demonstration authority, except that such period shall not exceed 5 years.

(3) Initial demonstration authority and expansion

During the first 3 years that the Secretary provides State educational agencies and consortia with demonstration authority (referred to in this section as the “initial demonstration period”) the Secretary shall provide such demonstration authority to—

(A) a total number of not more than 7 participating State educational agencies, including those participating in consortia, that have applications approved under subsection (e); and

(B) consortia that include not more than 4 State educational agencies.

(c) Progress report

(1) In general

Not later than 180 days after the end of the initial demonstration period, and prior to providing additional State educational agencies with demonstration authority, the Director of the Institute of Education Sciences, in consultation with the Secretary, shall publish a report detailing the initial progress of innovative assessment systems carried out through demonstration authority under this section.

(2) Criteria

The progress report under paragraph (1) shall be based on the annual information submitted by participating States described in subsection (e)(2)(B)(ix) and examine the extent to which—

(A) with respect to each innovative assessment system—

(i) the State educational agency has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system;

(ii) teachers, principals, and other school leaders have demonstrated a commitment and capacity to implement or continue to implement the innovative assessment system; and

(iii) substantial evidence exists demonstrating that the innovative assessment system has been developed in accordance with the requirements of subsection (e); and

(B) each State with demonstration authority has demonstrated that—

(i) the same innovative assessment system was used to measure the achievement of all students that participated in the innovative assessment system; and

(ii) of the total number of all students, and the total number of each of the subgroups of students defined in section 6311(c)(2) of this title, eligible to participate in the innovative assessment system in a given year, the State assessed in that year an equal or greater percentage of such eligible students, as measured under section 6311(c)(4)(E) of this title, as were assessed in the State in such year using the assessment system under section 6311(b)(2) of this title.

(3) Use of report

Upon completion of the progress report, the Secretary shall provide a response to the find-

ings of the progress report, including a description of how the findings of the report will be used—

(A) to support State educational agencies with demonstration authority through technical assistance; and

(B) to inform the peer-review process described in subsection (f) for advising the Secretary on the awarding of the demonstration authority to the additional State educational agencies described in subsection (d).

(4) Publicly available

The Secretary shall make the progress report under this subsection and the response described in paragraph (3) publicly available on the website of the Department.

(5) Prohibition

The Secretary shall not require States that have demonstration authority to submit any information for the purposes of the progress report that is in addition to the information the State is already required to provide under subsection (e)(2)(B)(x).

(d) Expansion of the demonstration authority

Upon completion and publication of the report described in subsection (c), the Secretary may grant demonstration authority to additional State educational agencies or consortia that submit an application under subsection (e). Such State educational agencies or consortia of State educational agencies shall be subject to all of the same terms, conditions, and requirements of this section.

(e) Application

(1) In general

A State educational agency, or consortium of State educational agencies, that desires to participate in the program of demonstration authority under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(2) Contents

Such application shall include a description of the innovative assessment system, the experience the applicant has in implementing any components of the innovative assessment system, and the timeline over which the State or consortium proposes to exercise the demonstration authority. In addition, the application shall include each of the following:

(A) A demonstration that the innovative assessment system will—

(i) meet all the requirements of section 6311(b)(2)(B) of this title, except the requirements of clauses (i) and (v) of such section;

(ii) be aligned to the challenging State academic standards and address the depth and breadth of such standards;

(iii) express student results or student competencies in terms consistent with the State’s aligned academic achievement standards under section 6311(b)(1) of this title;

(iv) generate results that are valid and reliable, and comparable, for all students

and for each subgroup of students described in section 6311(b)(2)(B)(xi) of this title, as compared to the results for such students on the State assessments under section 6311(b)(2) of this title;

- (v) be developed in collaboration with—
 - (I) stakeholders representing the interests of children with disabilities, English learners, and other vulnerable children;
 - (II) teachers, principals, and other school leaders;
 - (III) local educational agencies;
 - (IV) parents; and
 - (V) civil rights organizations in the State;
 - (vi) be accessible to all students, such as by incorporating the principles of universal design for learning;
 - (vii) provide teachers, principals, other school leaders, students, and parents with timely data, disaggregated by each subgroup of students described in section 6311(b)(2)(B)(xi) of this title, to inform and improve instructional practice and student supports;
 - (viii) identify which students are not making progress toward the challenging State academic standards so that teachers can provide instructional support and targeted interventions to all students;
 - (ix) annually measure the progress of not less than the same percentage of all students and students in each of the subgroups of students, as defined in section 6311(c)(2) of this title, who are enrolled in schools that are participating in the innovative assessment system and are required to take such assessments, as measured under section 6311(c)(4)(E) of this title, as were assessed by schools administering the assessment under section 6311(b)(2) of this title;
 - (x) generate an annual, summative achievement determination, based on the aligned State academic achievement standards under section 6311(b)(1) of this title and based on annual data, for each individual student; and
 - (xi) allow the State educational agency to validly and reliably aggregate data from the innovative assessment system for purposes of—
 - (I) accountability, consistent with the requirements of section 6311(c) of this title; and
 - (II) reporting, consistent with the requirements of section 6311(h) of this title.
- (B) A description of how the State educational agency will—
- (i) continue use of the statewide academic assessments required under section 6311(b)(2) of this title if such assessments will be used for accountability purposes for the duration of the demonstration authority period;
 - (ii) identify the distinct purposes for each assessment that is part of the innovative assessment system;
 - (iii) provide support and training to local educational agency and school staff to im-

plement the innovative assessment system described in this subsection;

- (iv) inform parents of students in participating local educational agencies about the innovative assessment system at the beginning of each school year during which the innovative assessment system will be implemented;
- (v) engage and support teachers in developing and scoring assessments that are part of the innovative assessment system, including through the use of high-quality professional development, standardized and calibrated scoring rubrics, and other strategies, consistent with relevant nationally recognized professional and technical standards, to ensure inter-rater reliability and comparability;
- (vi) acclimate students to the innovative assessment system;
- (vii) ensure that students with the most significant cognitive disabilities may be assessed with alternate assessments consistent with section 6311(b)(2)(D) of this title;
- (viii) if the State is proposing to administer the innovative assessment system initially in a subset of local educational agencies, scale up the innovative assessment system to administer such system statewide, or with additional local educational agencies, in the State's proposed demonstration authority period;
- (ix) gather data, solicit regular feedback from teachers, principals, other school leaders, and parents, and assess the results of each year of the program of demonstration authority under this section, and respond by making needed changes to the innovative assessment system; and
- (x) report data from the innovative assessment system annually to the Secretary, including—
 - (I) demographics of participating local educational agencies, if such system is not statewide, and additional local educational agencies if added to the system during the course of the State's demonstration authority period or 2-year extension, except that such data shall not reveal any personally identifiable information, including a description of how the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies throughout the demonstration authority period;
 - (II) the performance of all participating students, and for each subgroup of students defined in section 6311(c)(2) of this title, on the innovative assessment, consistent with the requirements in section 6311(h) of this title, except that such data shall not reveal any personally identifiable information;
 - (III) feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

(IV) if such system is not statewide, a description of the State's progress in scaling up the innovative assessment system to additional local educational agencies during the State's demonstration authority period, as described in clause (viii).

(C) A description of the State educational agency's plan to—

(i) ensure that all students and each of the subgroups of students defined in section 6311(c)(2) of this title participating in the innovative assessment system receive the instructional support needed to meet State aligned academic achievement standards;

(ii) ensure that each local educational agency has the technological infrastructure to implement the innovative assessment system; and

(iii) hold all schools in the local educational agencies participating in the program of demonstration authority accountable for meeting the State's expectations for student achievement.

(D) If the innovative assessment system will initially be administered in a subset of local educational agencies—

(i) a description of the local educational agencies within the State educational agency that will participate, including what criteria the State has for approving any additional local educational agencies to participate during the demonstration authority period;

(ii) assurances from such local educational agencies that such agencies will comply with the requirements of this subsection;

(iii) a description of how the State will—

(I) ensure that the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies during the demonstration authority period; and

(II) ensure that the participating local educational agencies, as a group, will be demographically similar to the State as a whole by the end of the State's demonstration authority period; and

(iv) a description of the State educational agency's plan to hold all students and each of the subgroups of students, as defined in section 6311(c)(2) of this title, to the same high standard as other students in the State.

(f) Peer review

The Secretary shall—

(1) implement a peer-review process to inform—

(A) the awarding of demonstration authority under this section and the approval to operate an innovative assessment system for the purposes of subsections (b)(2) and (c) of section 6311 of this title, as described in subsection (h); and

(B) determinations about whether an innovative assessment system—

(i) is comparable to the State assessments under section 6311(b)(2)(B)(v) of this title, valid, reliable, of high technical quality, and consistent with relevant, nationally recognized professional and technical standards; and

(ii) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 6311(c)(4)(A)(i) of this title for all students;

(2) ensure that the peer-review team consists of practitioners and experts who are knowledgeable about the innovative assessment system being proposed for all participating students, including—

(A) individuals with past experience developing systems of assessment innovation that support all students, including English learners, children with disabilities, and disadvantaged students; and

(B) individuals with experience implementing innovative assessment and accountability systems;

(3) make publicly available the applications submitted under subsection (c)¹ and the peer-review comments and recommendations regarding such applications;

(4) make a determination and inform the State regarding approval or disapproval of the application under subsection (c)¹ not later than 90 days after receipt of the complete application;

(5) if the Secretary disapproves an application under paragraph (4), offer the State an opportunity to—

(A) revise and resubmit such application within 60 days of the disapproval determination; and

(B) submit additional evidence that the State's application meets the requirements of subsection (c);¹ and

(6) make a determination regarding application approval or disapproval of a resubmitted application under paragraph (5) not later than 45 days after receipt of the resubmitted application.

(g) Extension

The Secretary may extend an authorization of demonstration authority under this section for an additional 2 years if the State educational agency demonstrates with evidence that the State educational agency's innovative assessment system is continuing to meet the requirements of subsection (c), including by demonstrating a plan for, and the capacity to, transition to statewide use of the innovative assessment system by the end of the 2-year extension period.

(h) Use of innovative assessment system

A State may, during the State's approved demonstration authority period or 2-year extension, include results from the innovative assessment systems developed under this section in accountability determinations for each student in the participating local educational agencies instead of, or in addition to, results from the as-

¹ So in original. Probably should refer to subsection (e).

assessment system under section 6311(b)(2) of this title if the State demonstrates that the State has met the requirements under subsection (c). The State shall continue to meet all other requirements of section 6311(c) of this title.

(i) Withdrawal of authority

The Secretary shall withdraw the authorization for demonstration authority provided to a State educational agency under this section and such State shall return to use of the statewide assessment system under section 6311(b)(2) of this title for all local educational agencies in the State if, at any time during a State's approved demonstration authority period or 2-year extension, the State educational agency cannot present to the Secretary evidence that the innovative assessment system developed under this section—

- (1) meets the requirements under subsection (c);
- (2) includes all students attending schools participating in the innovative assessment system in a State that has demonstration authority, including each of the subgroups of students, as defined under section 6311(c)(2) of this title;
- (3) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 6311(c)(4)(A)(i) of this title for all students, which are comparable to measures of academic achievement under section 6311(c)(4)(B)(i) of this title across the State in which the local educational agencies are located;
- (4) presents a high-quality plan to transition to full statewide use of the innovative assessment system by the end of the State's approved demonstration authority period or 2-year extension, if the innovative assessment system will initially be administered in a subset of local educational agencies; and
- (5) demonstrates comparability to the statewide assessments under section 6311(b)(2) of this title in content coverage, difficulty, and quality.

(j) Transition

(1) In general

(A) Operation of innovative assessment system

If, after a State's approved demonstration authority period or 2-year extension, the State educational agency has met all the requirements of this section, including having scaled the innovative assessment system up to statewide use, and demonstrated that such system is of high quality, as described in subparagraph (B), the State shall be permitted to operate the innovative assessment system approved under the program of demonstration authority under this section for the purposes of subsections (b)(2) and (c) of section 6311 of this title.

(B) High quality

Such system shall be considered of high quality if the Secretary, through the peer-review process described in section 6311(a)(4) of this title, determines that—

- (i) the innovative assessment system meets all of the requirements of this section;

- (ii) the State has examined the effects of the system on other measures of student success, including indicators in the accountability system under section 6311(c)(4)(B) of this title;

- (iii) the innovative assessment system provides coherent and timely information about student achievement based on the challenging State academic standards, including objective measurement of academic achievement, knowledge, and skills that are valid, reliable, and consistent with relevant, nationally-recognized professional and technical standards;

- (iv) the State has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

- (v) the State has demonstrated that the same innovative assessment system was used to measure—

- (I) the achievement of all students that participated in such innovative assessment system; and

- (II) not less than the percentage of such students overall and in each of the subgroups of students, as defined in section 6311(c)(2) of this title, as measured under section 6311(c)(4)(E) of this title, as were assessed under the assessment required by section 6311(b)(2) of this title.

(2) Baseline

For the purposes of the evaluation described in paragraph (1), the baseline year shall be considered the first year that each local educational agency in the State used the innovative assessment system.

(3) Waiver authority

A State may request, and the Secretary shall review such request and may grant, a delay of the withdrawal of authority under subsection (i) for the purpose of providing the State with the time necessary to implement the innovative assessment system statewide, if, at the conclusion of the State's approved demonstration authority period and 2-year extension—

- (A) the State has met all of the requirements of this section, except transition to full statewide use of the innovative assessment system; and

- (B) the State continues to comply with the other requirements of this section, and demonstrates a high-quality plan for transition to statewide use of the innovative assessment system in a reasonable period of time.

(k) Available funds

A State may use funds available under section 6361 of this title to carry out this section.

(l) Consortium

A consortium of States may apply to participate in the program of demonstration authority under this section, and the Secretary may provide each State member of such consortium with such authority if each such State member meets all of the requirements of this section.

Such consortium shall be subject to the limitation described in subsection (b)(3)(B) during the initial 3 years of the demonstration authority.

(m) Dissemination of best practices

(1) In general

Following the publication of the progress report described in subsection (c), the Director of the Institute of Education Sciences, in consultation with the Secretary, shall collect and disseminate the best practices on the development and implementation of innovative assessment systems that meet the requirements of this section, including best practices regarding the development of—

(A) summative assessments that—

(i) meet the requirements of section 6311(b)(2)(B) of this title;

(ii) are comparable with statewide assessments under section 6311(b)(2) of this title; and

(iii) include assessment tasks that determine proficiency or mastery of State-approved competencies aligned to challenging State academic standards;

(B) effective supports for local educational agencies and school staff to implement innovative assessment systems;

(C) effective engagement and support of teachers in developing and scoring assessments and the use of high-quality professional development;

(D) effective supports for all students, particularly each of the subgroups of students, as defined in section 6311(c)(2) of this title, participating in the innovative assessment system; and

(E) standardized and calibrated scoring rubrics, and other strategies, to ensure interrater reliability and comparability of determinations of mastery or proficiency across local educational agencies and the State.

(2) Publication

The Secretary shall make the information described in paragraph (1) available on the website of the Department and shall publish an update to the information not less often than once every 3 years.

(Pub. L. 89-10, title I, §1204, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1885.)

PRIOR PROVISIONS

A prior section 6364, Pub. L. 89-10, title I, §1204, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1546, related to award of targeted assistance grants, prior to the general amendment of this part by Pub. L. 114-95.

Another 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.

Prior sections 6365 to 6368 were omitted in the general amendment of this part by Pub. L. 114-95.

Section 6365, Pub. L. 89-10, title I, §1205, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1548,

related to external evaluation of former subpart 1 of this part.

Another 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.

Section 6366, Pub. L. 89-10, title I, §1206, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1548, related to activities of Secretary of Education.

Another 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.

Section 6367, 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, related to dissemination of information.

Another 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.

Section 6368, Pub. L. 89-10, title I, §1208, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1549, defined terms in former subpart 1 of this part.

Another 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.

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.

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.

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.

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.

Prior sections 6371 to 6376, 6381 to 6381k, and 6383 were omitted in the general amendment of this part by Pub. L. 114-95.

Section 6371, Pub. L. 89-10, title I, §1221, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1552, set forth purposes and definitions for former subpart 2 of this part.

Section 6372, Pub. L. 89-10, title I, §1222, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1553, authorized local Early Reading First grants.

Section 6373, Pub. L. 89-10, title I, §1223, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1554, related to Federal administration of activities.

Section 6374, Pub. L. 89-10, title I, §1224, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1554, related to dissemination of information regarding assisted projects.

Section 6375, Pub. L. 89-10, title I, §1225, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1554, related to annual reporting requirements.

Section 6376, Pub. L. 89-10, title I, §1226, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1555, related to evaluation of effectiveness of former subpart 2 of this part.

Section 6381, Pub. L. 89-10, title I, §1231, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1555, stated purpose of former subpart 3 of this part.

Section 6381a, Pub. L. 89-10, title I, §1232, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1556, authorized reservation of funds for migrant programs, outlying areas, and Indian tribes.

Section 6381b, Pub. L. 89-10, title I, §1233, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1558, related to use of funds for State educational agency level activities and local programs.

Section 6381c, Pub. L. 89-10, title I, §1234, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1559, related to use of funds by recipients of funds.

Section 6381d, Pub. L. 89-10, title I, §1235, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1560; amended Pub. L. 113-128, title V, §512(i)(2), July 22, 2014, 128 Stat. 1708, set forth elements of each program assisted.

Section 6381e, Pub. L. 89-10, title I, §1236, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1562, related to eligibility for participation in an Even Start program.

Section 6381f, Pub. L. 89-10, title I, §1237, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1563, related to application for subgrant under former subpart 3 of this part.

Section 6381g, Pub. L. 89-10, title I, §1238, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1564, related to award of subgrants.

Section 6381h, Pub. L. 89-10, title I, §1239, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to evaluation of programs.

Section 6381i, Pub. L. 89-10, title I, §1240, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to development of indicators of program quality.

Section 6381j, Pub. L. 89-10, title I, §1241, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1566, related to research into components of successful family literacy services.

Section 6381k, Pub. L. 89-10, title I, §1242, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1567, related to construction of provisions.

Section 6383, Pub. L. 89-10, title I, §1251, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1567, related to improvement of literacy through school libraries.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART C—EDUCATION OF MIGRATORY CHILDREN

§ 6391. Program purposes

The purposes of this part are as follows:

(1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession peri-

ods, that address the unique educational needs of migratory children.

(2) To 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 challenging State academic standards.

(3) To ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic standards that all children are expected to meet.

(4) 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 succeed in school.

(5) To help 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; amended Pub. L. 114-95, title I, §1301(a), Dec. 10, 2015, 129 Stat. 1893.)

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.

AMENDMENTS

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section related to purposes of this part to assist States: (1) to support high-quality and comprehensive educational programs for migratory children; (2) to ensure that migratory children who move among the States are not penalized in any manner by disparities among the States; (3) to ensure that migratory children are provided with appropriate educational services; (4) to ensure that migratory children receive full and appropriate opportunities to meet challenging State standards; (5) to design programs to help migratory children overcome educational disruption and other factors that inhibit their ability to do well in school; and (6) to ensure that migratory children benefit from State and local systemic reforms.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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**

Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to the product of—

(1) the sum of—

(A) the average number of identified eligible migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and

(B) 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 the previous year; multiplied by

(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(b) Hold harmless

Notwithstanding subsection (a), for each of fiscal years 2017 through 2019, no State shall receive less than 90 percent of the State's allocation under this section for the preceding fiscal year.

(c) Allocation to Puerto Rico**(1) In general**

For each fiscal year, the grant that 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) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, subject to paragraphs (2) and (3); and

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

(2) Minimum percentage

The percentage described in paragraph (1)(A) shall not be less than 85 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.

(d) Ratable reductions; reallocations**(1) In general****(A) Ratable reductions**

If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fis-

cal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) Reallocation

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 purposes of this part.

(2) Special rule**(A) Further reductions**

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) Reallocation

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.

(e) 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 academic achievement of children to be served under this part.

(f) Determining numbers of eligible children

In order to determine the identified number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use the most recent information that most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for monitoring the accuracy of such information;

(3) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(4) adjust the number of migratory children who reside in each State to take into account—

(A) the unique needs of those children participating in effective special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(5) conduct an analysis of the options for adjusting the formula so as to better direct services to migratory children, including the most at-risk migratory children.

(g) Nonparticipating States

In the case of a State desiring to receive an allocation under this part for a fiscal year that did not receive an allocation for the previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State's number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

(Pub. L. 89-10, title I, §1303, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1571; amended Pub. L. 114-95, title I, §1301(b), Dec. 10, 2015, 129 Stat. 1894.)

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.

AMENDMENTS

2015—Subsecs. (a), (b). Pub. L. 114-95, §1301(b)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to State allocations for fiscal year 2002 and subsequent years and allocation to Puerto Rico for each fiscal year.

Subsec. (c). Pub. L. 114-95, §1301(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114-95, §1301(b)(1), (3), redesignated subsec. (c) as (d), in par. (1) inserted subpar. headings after subpar. (A) and (B) designations, in par. (1), subpar. (B), substituted “purposes” for “purpose”, and in par. (2) inserted subpar. headings after subpar. (A) and (B) designations. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114-95, §1301(b)(1), (4), redesignated subsec. (d) as (e) and in par. (3)(B) substituted “the academic achievement of children” for “the welfare or educational attainment of children”. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 114-95, §1301(b)(1), (5)(A), redesignated subsec. (e) as (f) and in introductory provisions substituted “identified number” for “estimated number”.

Subsec. (f)(1). Pub. L. 114-95, §1301(b)(5)(B), added par. (1) and struck out former par. (1) which read as follows: “use such information as the Secretary finds most accurately reflects the actual number of migratory children;”.

Subsec. (f)(2), (3). Pub. L. 114-95, §1301(b)(5)(C), (D), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 114-95, §1301(b)(5)(C), (E), redesignated par. (3) as (4), in introductory provisions struck out “full-time equivalent” before “number”, and in subpar. (A) substituted “unique needs” for “special

needs” and “effective special programs provided under this part” for “special programs provided under this part”. Former par. (4) redesignated (5).

Subsec. (f)(5). Pub. L. 114-95, §1301(b)(5)(C), (F), redesignated par. (4) as (5) and substituted “migratory children, including the most at-risk migratory children” for “the child whose education has been interrupted”.

Subsec. (g). Pub. L. 114-95, §1301(b)(6), added subsec. (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, 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 migratory children, including language instruction educational programs under part A of subchapter III;

(C) the integration of services available under this part with services provided by those other programs; and

(D) measurable program objectives 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 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 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 migra-

tory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs; and

(6) 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 whose parents 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 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 F;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children, including parent advisory councils, for programs not less than 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 and migratory children who have dropped out of school;

(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;

(6) such programs and projects will provide for outreach activities for migratory children and their families to inform such children and families of other education, health, nutrition, and social services to help connect them to such services;

(7) to the extent feasible, such programs and projects will provide for—

(A) advocacy and other outreach activities for migratory children and their families, including 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;

(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

(8) the State will assist the Secretary in determining the number of migratory children under section 6393(a)(1) of this title.

(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 have made a qualifying move within the previous 1-year period and who—

(1) are failing, or most at risk of failing, to meet the challenging State academic standards; or

(2) have dropped out of school.

(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) 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; amended Pub. L. 114-95, title I, §1301(c), Dec. 10, 2015, 129 Stat. 1896.)

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.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114-95, §1301(c)(1)(A)(i), in introductory provisions substituted “unique educational needs” for “special educational needs” and inserted “and migratory children who have dropped out of school” after “preschool migratory children”.

Subsec. (b)(1)(B). Pub. L. 114-95, §1301(c)(1)(A)(ii), substituted “migratory children” for “migrant children” and “part A of subchapter III” for “part A or B of subchapter III”.

Subsec. (b)(1)(D). Pub. L. 114-95, §1301(c)(1)(A)(iii), added subpar. (D) and struck out former subpar. (D) which read as follows: “measurable program goals and outcomes;”.

Subsec. (b)(2). Pub. L. 114-95, §1301(c)(1)(B), substituted “challenging State academic standards” for “challenging State academic content standards and challenging State student academic achievement standards”.

Subsec. (b)(3). Pub. L. 114-95, § 1301(c)(1)(C), struck out “, consistent with procedures the Secretary may require,” after “including how”.

Subsec. (b)(5). Pub. L. 114-95, § 1301(c)(1)(D), inserted “and” after semicolon at end.

Subsec. (b)(6), (7). Pub. L. 114-95, § 1301(c)(1)(E)–(G), redesignated par. (7) as (6), substituted “migratory children whose parents do not have a high school diploma” for “migratory children who have parents who do not have a high school diploma”, and struck out former par. (6) which read as follows: “such budgetary and other information as the Secretary may require; and”.

Subsec. (c). Pub. L. 114-95, § 1301(c)(2)(A), struck out “, satisfactory to the Secretary,” after “assurances” in introductory provisions.

Subsec. (c)(2). Pub. L. 114-95, § 1301(c)(2)(B), made technical amendment to reference in original act which appears in text as reference to subsections (b) and (c) of section 6321 of this title and substituted “part F” for “part I”.

Subsec. (c)(3). Pub. L. 114-95, § 1301(c)(2)(C)(i), in introductory provisions substituted “parents of migratory children, including parent advisory councils,” for “parent advisory councils” and “not less than 1 school year in duration” for “of 1 school year in duration”.

Subsec. (c)(3)(A). Pub. L. 114-95, § 1301(c)(2)(C)(ii), made technical amendment to reference in original act which appears in text as reference to section 6318 of this title.

Subsec. (c)(4). Pub. L. 114-95, § 1301(c)(2)(D), inserted “and migratory children who have dropped out of school” after “preschool migratory children”.

Subsec. (c)(6) to (8). Pub. L. 114-95, § 1301(c)(2)(E)–(G), added pars. (6) and (7), redesignated former par. (7) as (8), in par. (8) substituted “section 6393(a)(1) of this title” for “paragraphs (1)(A) and (2)(B)(i) of section 6393(a) of this title, through such procedures as the Secretary may require”, and struck out former par. (6) which related to assurances that, to the extent feasible, programs would provide for advocacy and outreach activities, professional development programs, family literacy programs, the integration of information technology into programs, and programs to facilitate the transition to postsecondary education or employment.

Subsec. (d). Pub. L. 114-95, § 1301(c)(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “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.”

Subsec. (e)(3). Pub. L. 114-95, § 1301(c)(4), substituted “students” for “secondary school students”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6395. Secretarial approval; peer review

The Secretary shall approve each State application that meets the requirements of this part, and may review any such application with the assistance and advice of State officials and other officials 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; amended Pub. L. 114-95, title I, § 1301(d), Dec. 10, 2015, 129 Stat. 1897.)

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.

AMENDMENTS

2015—Pub. L. 114-95 amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to Secretarial approval and peer review, respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 unique 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 unique 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 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, early childhood programs, and language instruction educational programs under part A of subchapter III; 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), each State educational agency, where applicable through its local educational agencies, retains 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 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 unique 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; amended Pub. L. 114-95, title I, §1301(e), Dec. 10, 2015, 129 Stat. 1897.)

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.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-95, §1301(e)(1)(A), substituted “unique” for “special” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 114-95, §1301(e)(1)(B)(i), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7842 of this title.

Subsec. (a)(1)(B)(i). Pub. L. 114-95, §1301(e)(1)(B)(ii), substituted “unique” for “special”.

Subsec. (a)(1)(C). Pub. L. 114-95, §1301(e)(1)(C), substituted “challenging State academic standards” for “challenging State academic content standards and challenging State student academic achievement standards”.

Subsec. (a)(1)(F). Pub. L. 114-95, §1301(e)(1)(D), substituted “part A of subchapter III” for “part A or B of subchapter III”.

Subsec. (b)(1). Pub. L. 114-95, §1301(e)(2)(A), substituted “retains the flexibility to” for “shall have the flexibility to”.

Subsec. (b)(4). Pub. L. 114-95, §1301(e)(2)(B), substituted “unique educational needs” for “special educational needs”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6397. Bypass

The Secretary may use all or part of any State’s allocation under this part to make arrangements with any public or private 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 educational achievement 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; amended Pub. L. 114-95, title I, §1301(f), Dec. 10, 2015, 129 Stat. 1898.)

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.

AMENDMENTS

2015—Pub. L. 114-95, §1301(f)(1), struck out “non-profit” before “agency” in introductory provisions.

Par. (3). Pub. L. 114-95, §1301(f)(2), substituted “educational achievement” for “welfare or educational attainment”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 entities to improve the interstate and intrastate coordination among such agencies’ educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory children.

(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 the electronic transfer of student records and in deter-

mining 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 eligible under this part. The Secretary shall ensure that such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, December 10, 2015. Such information 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 under section 6311(b)(2) of this title;

(iii) other academic information essential to ensuring that migratory children achieve to the challenging State academic standards; and

(iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(B) Consultation

The Secretary shall maintain ongoing consultation with the States, local educational agencies, and other migratory student service providers on—

(i) the effectiveness of the system described in subparagraph (A); and

(ii) the ongoing improvement of such system.

(C) 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 any new 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.

(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.

(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 com-

petitive 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; amended Pub. L. 114–95, title I, §1301(g), Dec. 10, 2015, 129 Stat. 1898.)

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.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–95, §1301(g)(1), struck out “nonprofit” before “entities”, inserted “through” after “including”, and substituted “children” for “students”.

Subsec. (b)(1). Pub. L. 114–95, §1301(g)(2)(A), struck out “developing effective methods for” before “the electronic transfer”.

Subsec. (b)(2)(A). Pub. L. 114–95, §1301(g)(2)(B)(i)(I), added introductory provisions and struck out former introductory provisions which read as follows: “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—”.

Subsec. (b)(2)(A)(ii). Pub. L. 114–95, §1301(g)(2)(B)(i)(II), substituted “assessments under section 6311(b)(2)” for “assessments required under section 6311(b)”.

Subsec. (b)(2)(A)(iii). Pub. L. 114–95, §1301(g)(2)(B)(i)(III), substituted “the challenging State academic standards” for “high standards”.

Subsec. (b)(2)(B), (C). Pub. L. 114–95, §1301(g)(2)(B)(ii)–(iv), added subpar. (B), redesignated former subpar. (B) as (C), and in subpar. (C) substituted “any new proposed data elements” for “the proposed data elements” and struck out at end “Such publication shall occur not later than 120 days after January 8, 2002.”

Subsec. (b)(4). Pub. L. 114–95, §1301(g)(2)(C), struck out par. (4) which related to report to Congress not later than Apr. 30, 2003, on the Secretary’s findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive pro-

grams and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6399. Definitions

As used in this part:

(1) Local operating agency

The term “local operating agency” means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or 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 agricultural worker

The term “migratory agricultural worker” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(3) Migratory child

The term “migratory child” means a child or youth who made a qualifying move in the preceding 36 months—

(A) as a migratory agricultural worker or a migratory fisher; or

(B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(4) Migratory fisher

The term “migratory fisher” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

(5) Qualifying move

The term “qualifying move” means a move due to economic necessity—

(A) from one residence to another residence; and

(B) from one school district to another school district, except—

(i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administrative area to another within such district; or

(ii) in the case of a school district of more than 15,000 square miles, wherein a

qualifying move is a distance of 20 miles or more to a temporary residence.

(Pub. L. 89-10, title I, §1309, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1579; amended Pub. L. 114-95, title I, §1301(h), Dec. 10, 2015, 129 Stat. 1899.)

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.

AMENDMENTS

2015—Par. (1)(B). Pub. L. 114-95, §1301(h)(1), struck out “nonprofit” before “private agency”.

Pars. (2) to (5). Pub. L. 114-95, §1301(h)(2), added pars. (2) to (5) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “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.”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

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, tribal, 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 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 and the involvement of their families and communities.

(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; amended Pub. L. 114-95, title I, §1401(1), Dec. 10, 2015, 129 Stat. 1900.)

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.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-95, §1401(1)(A), inserted “, tribal,” after “youth in local” and substituted “challenging State academic standards” for “challenging State academic content standards and challenging State student academic achievement standards”.

Subsec. (a)(3). Pub. L. 114-95, §1401(1)(B), inserted “and the involvement of their families and communities” after “to ensure their continued education”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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) 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 85 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) 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; amended Pub. L. 114-95, title I, §1401(2), Dec. 10, 2015, 129 Stat. 1900.)

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.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114-95 added par. (2) and struck out former par. (2) which related to minimum percentage for fiscal year 2002, fiscal year 2003, fiscal year 2004, and fiscal year 2005 and succeeding fiscal years.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this 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 between correctional facilities and 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 objectives and outcomes established by the State that will be used to assess the effectiveness of the program in improving the academic, career, 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;

(C) describe how the State will place a priority for such children to attain a regular high school diploma, to the extent feasible;

(D) 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; and

(ii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(E) provide assurances that the State educational agency has established—

(i) procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement; and

(ii) opportunities for such students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming.

(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 and, to the extent practicable, provide for such assessment upon entry into a correctional facility;

(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 use the results of the most recent evaluation under section 7981 of this title 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 the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], career 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 and after 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 in order to facilitate the transition of such children and youth 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 such children and youth between such facility or institution and 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 and attain a regular high school diploma 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 attain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(17) provides an assurance that certified or licensed 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;

(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 [34 U.S.C. 11101 et seq.] or other comparable programs, if applicable; and

(20) describes how the State agency will, to the extent feasible—

(A) note when a youth has come into contact with both the child welfare and juvenile justice systems; and

(B) deliver services and interventions designed to keep such youth in school that are evidence-based (to the extent a State deter-

mines that such evidence is reasonably available).

(Pub. L. 89-10, title I, §1414, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1582; amended Pub. L. 114-95, title I, §1401(3), Dec. 10, 2015, 129 Stat. 1900.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(8), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 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, which is classified principally to chapter 111 (§11101 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 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.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114-95, §1401(3)(A)(i), substituted “between correctional facilities and locally operated programs” for “from correctional facilities to locally operated programs”.

Subsec. (a)(2)(A). Pub. L. 114-95, §1401(3)(A)(ii)(I), substituted “the program objectives and outcomes established by the State” for “the program goals, objectives, and performance measures established by the State” and “career” for “vocational”.

Subsec. (a)(2)(B). Pub. L. 114-95, §1401(3)(A)(ii)(II), struck out “and” after semicolon at end.

Subsec. (a)(2)(C), (D). Pub. L. 114-95, §1401(3)(A)(ii)(III)–(V), added subpar. (C), redesignated former subpar. (C) as (D), and in subpar. (D) in cl. (i) inserted “and” after semicolon at end, redesignated cl. (iii) as (ii), and struck out former cls. (ii) and (iv) which related to assurance that the agency would carry out the evaluation requirements of section 6471 of this title and provide such other information as the Secretary might reasonably require.

Subsec. (a)(2)(E). Pub. L. 114-95, §1401(3)(A)(ii)(VI), added subpar. (E).

Subsec. (c)(1). Pub. L. 114-95, §1401(3)(B)(i), inserted “and, to the extent practicable, provide for such assessment upon entry into a correctional facility” after “to be served under this subpart”.

Subsec. (c)(6). Pub. L. 114-95, §1401(3)(B)(ii), substituted “will use” for “will carry out the evaluation requirements of section 7941 of this title and how”, inserted “under section 7981 of this title” after “most recent evaluation”, and struck out “will be used” before “to plan and improve the program”.

Subsec. (c)(7). Pub. L. 114-95, §1401(3)(B)(iii), made technical amendment to reference in original act which appears in text as reference to section 7901 of this title.

Subsec. (c)(8). Pub. L. 114-95, §1401(3)(B)(iv), substituted “the Workforce Innovation and Opportunity Act” for “Public Law 105-220” and “career” for “vocational”.

Subsec. (c)(9). Pub. L. 114-95, §1401(3)(B)(v), inserted “and after” after “prior to” and “in order to facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program” before semicolon at end.

Subsec. (c)(11). Pub. L. 114-95, §1401(3)(B)(vi), substituted “transition of such children and youth between such facility or institution and locally operated programs” for “transition of children and youth from such facility or institution to locally operated programs”.

Subsec. (c)(16). Pub. L. 114-95, §1401(3)(B)(vii), inserted “and attain a regular high school diploma” after “reenter school” and substituted “or attain a regular high school diploma” for “or achieve a secondary school diploma”.

Subsec. (c)(17). Pub. L. 114-95, §1401(3)(B)(viii), inserted “certified or licensed” before “teachers”.

Subsec. (c)(20). Pub. L. 114-95, §1401(3)(B)(ix)–(xi), added par. (20).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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, career and technical education, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include—

(i) the acquisition of equipment;

(ii) pay-for-success initiatives; or

(iii) providing targeted services for youth who have come in contact with both the child welfare system and juvenile justice system;

(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 challenging State academic standards;

(ii) respond to the educational needs of such children and youth, including by supplementing and improving 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 standards; and

(C) shall be carried out in a manner consistent with section 6321 of this title and part F (as applied to programs and projects under this part).

(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; amended Pub. L. 114-95, title I, §1401(4), Dec. 10, 2015, 129 Stat. 1902.)

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.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114-95, §1401(4)(A)(i), substituted “career and technical education” for “vocational or technical training”.

Subsec. (a)(2)(A). Pub. L. 114-95, §1401(4)(A)(ii)(I), added subpar. (A) and struck out former subpar (A) which read as follows: “may include the acquisition of equipment;”.

Subsec. (a)(2)(B)(i). Pub. L. 114-95, §1401(4)(A)(ii)(II)(aa), substituted “the challenging State academic standards” for “the State’s challenging academic content standards and student academic achievement standards”.

Subsec. (a)(2)(B)(ii). Pub. L. 114-95, §1401(4)(A)(ii)(II)(bb), substituted “respond to the educational needs of such children and youth, including by supplementing and improving the quality” for “supplement and improve the quality”.

Subsec. (a)(2)(B)(iii). Pub. L. 114-95, §1401(4)(A)(ii)(II)(cc), substituted “challenging State academic standards” for “challenging State academic achievement standards” and inserted “and” after semicolon at end.

Subsec. (a)(2)(C). Pub. L. 114-95, §1401(4)(A)(ii)(III), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title and substituted “part F” for “part I” and period for “; and” at end.

Subsec. (a)(2)(D). Pub. L. 114-95, §1401(4)(A)(ii)(IV), struck out subpar. (D) which read as follows: “may include the costs of meeting the evaluation requirements of section 7941 of this title.”

Subsec. (b). Pub. L. 114-95, §1401(4)(B), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 standards in order to improve the likelihood that the children and youth will attain a regular high school diploma or its recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, specialized instructional support 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), and how relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth are shared jointly between the State agency operating the institution or program and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the State agency;

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess and improve student achievement;

(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; amended Pub. L. 114-95, title I, §1401(5), Dec. 10, 2015, 129 Stat. 1902.)

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.

AMENDMENTS

2015—Par. (3). Pub. L. 114-95, §1401(5)(A), substituted “challenging State academic standards” for “challenging State academic content standards and student academic achievement standards” and “will attain a regular high school diploma” for “will complete secondary school, attain a secondary diploma”.

Par. (4). Pub. L. 114-95, §1401(5)(B), substituted “specialized instructional support services” for “pupil services” and inserted “, and how relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth are shared jointly between the State agency operating the

institution or program and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the State agency” before semicolon at end.

Par. (6). Pub. L. 114-95, §1401(5)(C), substituted “assess and improve student achievement” for “assess student progress”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children 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 between State-operated institutions, or institutions in the State operated by the Secretary of the Interior, and schools served by local educational agencies or schools operated or funded by the Bureau of Indian Education; or

(2) the successful reentry of youth offenders, who are age 20 or younger and have received a regular high school diploma or its recognized equivalent, into postsecondary education, or career and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or career 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, career 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 sub-section (a) 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; amended Pub. L. 114-95, title I, §1401(6), Dec. 10, 2015, 129 Stat. 1903.)

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.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-95, §1401(6)(A), added par. (1) and struck out former par. (1) which read as follows: “projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or”.

Subsec. (a)(2). Pub. L. 114-95, §1401(6)(B), substituted “regular high school diploma” for “secondary school diploma” in introductory provisions and substituted “career” for “vocational” wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6439. Technical assistance

The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year 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; amended Pub. L. 114-95, title I, §1401(7), Dec. 10, 2015, 129 Stat. 1903.)

AMENDMENTS

2015—Pub. L. 114-95, in section catchline, substituted “Technical assistance” for “Evaluation; technical assistance; annual model program” and, in text, substituted “for a fiscal year” for “for a fiscal year—”, struck out par. (2) designation before “to provide”, and struck out par. (1) which read as follows: “to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive pro-

grams and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

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, including schools operated or funded by the Bureau of Indian Education, 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; amended Pub. L. 114-95, title I, §1401(8), Dec. 10, 2015, 129 Stat. 1903.)

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.

AMENDMENTS

2015—Par. (3). Pub. L. 114-95 inserted “, including schools operated or funded by the Bureau of Indian Education.” after “local schools”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 such 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; amended Pub. L. 114-95, title I, §1401(9), Dec. 10, 2015, 129 Stat. 1903.)

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.

AMENDMENTS

2015—Subsec. (d). Pub. L. 114-95 substituted “impact on meeting such transitional” for “impact on meeting the transitional”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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, including such facilities operated by the Secretary of the Interior and Indian tribes;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) a description of the program operated by participating schools to facilitate the successful transition of 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 institutions of higher education or local businesses to facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming, and mentoring services for participating students;

(8) as appropriate, a description of how the program will involve parents and family members in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] and career 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 [34 U.S.C. 11101 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 traditional 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;

amended Pub. L. 113-128, title V, §512(i)(3), July 22, 2014, 128 Stat. 1708; Pub. L. 114-95, title I, §1401(10), Dec. 10, 2015, 129 Stat. 1903.)

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in par. (9), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 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, which is classified principally to chapter 111 (§11101 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 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.

AMENDMENTS

2015—Par. (2)(B). Pub. L. 114-95, §1401(10)(A), inserted “, including such facilities operated by the Secretary of the Interior and Indian tribes” after “juvenile justice system”.

Par. (4). Pub. L. 114-95, §1401(10)(B), added par. (4) and struck out former par. (4) which read as follows: “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;”.

Par. (7). Pub. L. 114-95, §1401(10)(C), inserted “institutions of higher education or” before “local businesses” and substituted “facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming” for “develop training, curriculum-based youth entrepreneurship education”.

Par. (8). Pub. L. 114-95, §1401(10)(D), inserted “and family members” after “parents”.

Par. (9). Pub. L. 114-95, §1401(10)(E), substituted “career” for “vocational”.

Par. (13). Pub. L. 114-95, §1401(10)(F), substituted “traditional” for “regular”.

2014—Par. (9). Pub. L. 113-128 substituted “a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Innovation and Opportunity Act” for “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”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§ 6454. Uses of funds**(a) In general**

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;
- (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 career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education;
- (5) programs providing mentoring and peer mediation;
- (6) programs for at-risk Indian children and youth, including such children and youth in correctional facilities in the area served by the local educational agency that are operated by the Secretary of the Interior or Indian tribes; and
- (7) pay for success initiatives.

(b) Contracts and grants

A local educational agency may use a subgrant received under this subpart to carry out the activities described under paragraphs (1) through (7) of subsection (a) directly or through subgrants, contracts, or cooperative agreements.

(Pub. L. 89-10, title I, §1424, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1589; amended Pub. L. 114-95, title I, §1401(11), Dec. 10, 2015, 129 Stat. 1904.)

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.

AMENDMENTS

2015—Pub. L. 114-95, §1401(11)(A), designated existing provisions as subsec. (a) and inserted subsec. heading.

Subsec. (a)(2). Pub. L. 114-95, §1401(11)(B), struck out “, 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” after “at-risk children and youth”.

Subsec. (a)(4). Pub. L. 114-95, §1401(11)(C)(i), substituted “career” for “vocational”.

Subsec. (a)(6), (7). Pub. L. 114-95, §1401(11)(C)(ii)-(E), added pars. (6) and (7).

Subsec. (b). Pub. L. 114-95, §1401(11)(F), added subsec. (b).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive pro-

grams and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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 and attain a regular high school diploma 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 regular high 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 the challenging State academic 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 the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], and career and technical education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 [34 U.S.C. 11101 et seq.] and other comparable programs, if applicable;

(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth;

(12) upon the child's or youth's entry into the correctional facility, work with the child's or youth's family members and the local educational agency that most recently provided services to the child or youth (if applicable) to ensure that the relevant and appropriate academic records and plans regarding the continuation of educational services for such child or youth are shared jointly between the correctional facility and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the correctional facility; and

(13) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility, to coordinate educational services so as to minimize disruption to the child's or youth's achievement.

(Pub. L. 89-10, title I, §1425, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1589; amended Pub. L. 113-128, title V, §512(i)(4), July 22, 2014, 128 Stat. 1708; Pub. L. 114-95, title I, §1401(12), Dec. 10, 2015, 129 Stat. 1904.)

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.

The Workforce Innovation and Opportunity Act, referred to in par. (9), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subtitle I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 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, which is classified principally to chapter 111 (§1101 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 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.

AMENDMENTS

2015—Par. (4). Pub. L. 114-95, §1401(12)(A), inserted “and attain a regular high school diploma” after “reenter school” and substituted “seek a regular high school diploma” for “seek a secondary school diploma”.

Par. (6). Pub. L. 114-95, §1401(12)(B), substituted “the challenging State academic standards” for “high academic achievement standards”.

Par. (9). Pub. L. 114-95, §1401(12)(C), substituted “career” for “vocational”.

Pars. (12), (13). Pub. L. 114-95, §1401(12)(D)-(F), added pars. (12) and (13).

2014—Par. (9). Pub. L. 113-128 substituted “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 the Workforce Innovation and Opportunity Act,” for “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,”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§ 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 the number of children and youth attaining a regular high school diploma or its recognized equivalent; 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, attaining a regular high school diploma or its recognized equivalent, or attaining 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; amended Pub. L. 114-95, title I, §1401(13), Dec. 10, 2015, 129 Stat. 1905.)

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.

AMENDMENTS

2015—Par. (1). Pub. L. 114-95, §1401(13)(A), substituted “the number of children and youth attaining a regular high school diploma or its recognized equivalent” for “reducing dropout rates for male students and for female students over a 3-year period”.

Par. (2). Pub. L. 114-95, §1401(13)(B), substituted “attaining a regular high school diploma” for “obtaining a secondary school diploma” and “attaining employment” for “obtaining employment”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

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, dis-

aggregating data on participation by gender, race, ethnicity, and age while protecting individual student privacy,¹ 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 and to graduate from high school in the number of years established by the State under either the four-year adjusted cohort graduation rate or the extended-year adjusted cohort graduation rate, if applicable;

(2) to accrue school credits that meet State requirements for grade promotion and high school graduation;

(3) to make the transition to a regular program or other education program operated by a local educational agency or school operated or funded by the Bureau of Indian Education;

(4) to complete high school (or high 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) 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), 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; amended Pub. L. 114-95, title I, §1401(14), Dec. 10, 2015, 129 Stat. 1905.)

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.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §1401(14)(A), (B), inserted “while protecting individual student privacy,” after “age” in introductory provisions and substituted “high school” for “secondary school” wherever appearing.

Subsec. (a)(1). Pub. L. 114-95, §1401(14)(C), inserted “and to graduate from high school in the number of

years established by the State under either the four-year adjusted cohort graduation rate or the extended-year adjusted cohort graduation rate, if applicable” after “educational achievement”.

Subsec. (a)(3). Pub. L. 114-95, §1401(14)(D), inserted “or school operated or funded by the Bureau of Indian Education” after “local educational agency”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 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, dependency adjudication, or delinquency adjudication, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system or child welfare system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, 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; amended Pub. L. 114-95, title I, §1401(15), Dec. 10, 2015, 129 Stat. 1905.)

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.

¹ So in original.

AMENDMENTS

2015—Par. (2). Pub. L. 114–95 inserted “dependency adjudication, or delinquency adjudication,” after “failure,” inserted “or child welfare system” after “juvenile justice system”, and substituted “is an English learner” for “has limited English proficiency”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

PART E—FLEXIBILITY FOR EQUITABLE PER-PUPIL FUNDING

PRIOR PROVISIONS

A prior part E, consisting of sections 6491 to 6494, related to national assessment of subchapter I, prior to repeal by Pub. L. 114–95, title I, § 1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

§ 6491. Flexibility for equitable per-pupil funding**(a) Purpose**

The purpose of the program under this section is to provide local educational agencies with flexibility to consolidate eligible Federal funds and State and local education funding in order to create a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(b) Authority**(1) In general**

The Secretary is authorized to enter into local flexibility demonstration agreements—

(A) for not more than 3 years with local educational agencies that are selected under subsection (c) and submit proposed agreements that meet the requirements of subsection (d); and

(B) under which such agencies may consolidate and use funds in accordance with subsection (d) in order to develop and implement a school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(2) Flexibility

Except as described in subsection (d)(1)(I), the Secretary is authorized to waive, for local educational agencies entering into agreements under this section, any provision of this chapter that would otherwise prevent such agency from using eligible Federal funds as part of such agreement.

(c) Selection of local educational agencies**(1) In general**

The Secretary may enter into local flexibility demonstration agreements with not more than 50 local educational agencies with an approved application under subsection (d).

(2) Selection

Each local educational agency shall be selected based on such agency—

(A) submitting a proposed local flexibility demonstration agreement under subsection (d);

(B) demonstrating that the agreement meets the requirements of such subsection; and

(C) agreeing to meet the continued demonstration requirements under subsection (e).

(3) Expansion

Beginning with the 2019–2020 academic year, the Secretary may extend funding flexibility authorized under this section to any local educational agency that submits and has approved an application under subsection (d), as long as a significant majority of the demonstration agreements with local educational agencies described in paragraph (1) meet the requirements of subsection (d)(2) and subsection (e)(1) as of the end of the 2018–2019 academic year.

(d) Required terms of local flexibility demonstration agreement**(1) Application**

Each local educational agency that desires to participate in the program under this section shall submit, at such time and in such form as the Secretary may prescribe, an application to enter into a local flexibility demonstration agreement with the Secretary in order to develop and implement a school funding system based on weighted per-pupil allocations that meets the requirements of this section. The application shall include—

(A) a description of the school funding system based on weighted per-pupil allocations, including—

(i) the weights used to allocate funds within such system;

(ii) the local educational agency’s legal authority to use State and local education funds consistent with this section;

(iii) how such system will meet the requirements of paragraph (2); and

(iv) how such system will support the academic achievement of students, including low-income students, the lowest-achieving students, English learners, and children with disabilities;

(B) a list of funding sources, including eligible Federal funds, the local educational agency will include in such system;

(C) a description of the amount and percentage of total local educational agency funding, including State and local education funds and eligible Federal funds, that will be allocated through such system;

(D) the per-pupil expenditures (which shall include actual personnel expenditures, including staff salary differentials for years of employment, and actual nonpersonnel expenditures) of State and local education funds for each school served by the agency for the preceding fiscal year;

(E) the per-pupil amount of eligible Federal funds each school served by the agency received in the preceding fiscal year, disaggregated by the programs supported by the eligible Federal funds;

(F) a description of how such system will ensure that any eligible Federal funds allocated through the system will meet the purposes of each Federal program supported by such funds, including serving students from low-income families, English learners, mi-

gratory children, and children who are neglected, delinquent, or at risk, as applicable;

(G) an assurance that the local educational agency developed and will implement the local flexibility demonstration agreement in consultation with teachers, principals, other school leaders (including charter school leaders in a local educational agency that has charter schools), administrators of Federal programs impacted by the agreement, parents, community leaders, and other relevant stakeholders;

(H) an assurance that the local educational agency will use fiscal control and sound accounting procedures that ensure proper disbursement of, and accounting for, eligible Federal funds consolidated and used under such system;

(I) an assurance that the local educational agency will continue to meet the requirements of sections 6320, 6321, and 7881 of this title; and

(J) an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using funds under the agreement.

(2) Requirements of the system

(A) In general

A local educational agency's school funding system based on weighted per-pupil allocations shall—

(i) except as allowed under clause (iv), allocate a significant portion of funds, including State and local education funds and eligible Federal funds, to the school level based on the number of students in a school and a formula developed by the agency under this section that determines per-pupil weighted amounts;

(ii) use weights or allocation amounts that allocate substantially more funding to English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the local educational agency, than to other students;

(iii) ensure that each high-poverty school receives, in the first year of the demonstration agreement—

(I) more per-pupil funding, including from Federal, State, and local sources, for low-income students than such funding received for low-income students in the year prior to entering into a demonstration agreement under this section; and

(II) at least as much per-pupil funding, including from Federal, State, and local sources, for English learners as such funding received for English learners in the year prior to entering into a demonstration agreement under this section;

(iv) be used to allocate to schools a significant percentage, which shall be a percentage agreed upon during the application process, of all the local educational agency's State and local education funds and eligible Federal funds; and

(v) include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual nonpersonnel expenditures in the calculation of the local educational agency's State and local education funds and eligible Federal funds to be allocated under clause (i).

(B) Percentage

In establishing the percentage described in subparagraph (A)(iv) for the system, the local educational agency shall demonstrate that the percentage—

(i) under such subparagraph is sufficient to carry out the purposes of the demonstration agreement under this section and to meet each of the requirements of this subsection; and

(ii) of State and local education funds and eligible Federal funds that are not allocated through the local educational agency's school funding system based on weighted per-pupil allocations, does not undermine or conflict with the requirements of the demonstration agreement under this section.

(C) Expenditures

After allocating funds through the system, the local educational agency shall charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual nonpersonnel expenditures.

(e) Continued demonstration

Each local educational agency with an approved application under subsection (d) shall annually—

(1) demonstrate to the Secretary that, as compared to the previous year, no high-poverty school served by the agency received—

(A) less per-pupil funding, including from Federal, State, and local sources, for low-income students; or

(B) less per-pupil funding, including from Federal, State, and local sources, for English learners;

(2) make public and report to the Secretary the per-pupil expenditures (including actual personnel expenditures that include staff salary differentials for years of employment, and actual non-personnel expenditures) of State and local education funds and eligible Federal funds for each school served by the agency, disaggregated by each quartile of students attending the school based on student level of poverty and by each major racial or ethnic group in the school, for the preceding fiscal year;

(3) make public the total number of students enrolled in each school served by the agency and the number of students enrolled in each such school disaggregated by each of the subgroups of students, as defined in section 6311(c)(2) of this title; and

(4) notwithstanding paragraph (1), (2), or (3), ensure that any information to be reported or

made public under this subsection is only reported or made public if such information does not reveal personally identifiable information.

(f) Limitations on administrative expenditures

Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this section may use, for administrative purposes, an amount of eligible Federal funds that is not more than the percentage of funds allowed for such purposes under any of the following:

- (1) This subchapter.
- (2) Subchapter II.
- (3) Subchapter III.
- (4) Part A of subchapter IV.
- (5) Part B of subchapter V.

(g) Peer review

The Secretary may establish a peer-review process to assist in the review of a proposed local flexibility demonstration agreement.

(h) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide supporting evidence as provided for in subsection (i)), terminate a local flexibility demonstration agreement under this section if there is evidence that the local educational agency has failed to comply with the terms of the agreement and the requirements under subsections (d) and (e).

(i) Evidence

If a local educational agency believes that the Secretary's determination under subsection (h) is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final determination.

(j) Program evaluation

From the amount reserved for evaluation activities under section 7981 of this title, the Secretary, acting through the Director of the Institute of Education Sciences, shall, in consultation with the relevant program office at the Department, evaluate—

- (1) the implementation of the local flexibility demonstration agreements under this section; and
- (2) the impact of such agreements on improving the equitable distribution of State and local funding and increasing student achievement.

(k) Renewal of local flexibility demonstration agreement

The Secretary may renew for additional 3-year terms a local flexibility demonstration agreement under this section if—

- (1) the local educational agency has met the requirements under subsections (d)(2) and (e) and agrees to, and has a high likelihood of, continuing to meet such requirements; and
- (2) the Secretary determines that renewing the local flexibility demonstration agreement is in the interest of students served under this subchapter and subchapter III.

(l) Definitions

In this section:

(1) Eligible Federal funds

The term “eligible Federal funds” means funds received by a local educational agency under—

- (A) this subchapter;
- (B) subchapter II;
- (C) subchapter III;
- (D) part A of subchapter IV; and
- (E) part B of subchapter V.

(2) High-poverty school

The term “high-poverty school” means a school that is in the highest 2 quartiles of schools served by a local educational agency, based on the percentage of enrolled students from low-income families.

(Pub. L. 89–10, title I, §1501, as added Pub. L. 114–95, title I, §1501(b), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

Prior sections 6491 to 6494, 6511 to 6518, 6531 to 6537, 6551 to 6553, 6555, and 6561 to 6561i were repealed by Pub. L. 114–95, §5, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1806, 1905, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

Section 6491, 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, related to evaluations. See section 7981 of this title.

Another 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.

Section 6492, Pub. L. 89–10, title I, §1502, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1597, related to demonstrations of innovative practices.

Another 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.

Section 6493, Pub. L. 89–10, title I, §1503, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1597, related to assessment evaluation.

Another 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.

Section 6494, Pub. L. 89–10, title I, §1504, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1598, related to Close Up fellowship program.

Section 6511, Pub. L. 89–10, title I, §1601, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1601, stated purpose of former part F of this subchapter.

Another 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.

Section 6512, Pub. L. 89–10, title I, §1602, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1601, related to program authorization.

Another 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.

Section 6513, Pub. L. 89-10, title I, §1603, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1602, related to application by State educational agency.

Another 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.

Section 6514, Pub. L. 89-10, title I, §1604, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1603, related to use of funds by State educational agency.

Another 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.

Section 6515, Pub. L. 89-10, title I, §1605, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1604, related to application by local educational agency.

Section 6516, Pub. L. 89-10, title I, §1606, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1604, related to use of funds by local educational agency.

Section 6517, Pub. L. 89-10, title I, §1607, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1605, related to evaluation of programs and reports.

Section 6518, Pub. L. 89-10, title I, §1608, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1605, related to quality initiatives.

Section 6531, Pub. L. 89-10, title I, §1701, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, provided that former part G of this subchapter could be cited as the "Access to High Standards Act".

Section 6532, Pub. L. 89-10, title I, §1702, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, stated purposes of former part G of this subchapter.

Section 6533, Pub. L. 89-10, title I, §1703, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, set forth funding distribution rule.

Section 6534, Pub. L. 89-10, title I, §1704, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1606, related to reimbursement of advanced placement test fees.

Section 6535, Pub. L. 89-10, title I, §1705, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1608, related to grants to expand access to advanced placement incentive programs.

Section 6536, Pub. L. 89-10, title I, §1706, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1609, related to use of grants to supplement, not supplant other non-Federal funds.

Section 6537, 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, defined terms in former part G of this subchapter.

Section 6551, Pub. L. 89-10, title I, §1801, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, provided that former part H of this subchapter could be cited as the "Dropout Prevention Act".

Section 6552, Pub. L. 89-10, title I, §1802, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, stated purposes of former part H of this subchapter.

Section 6553, Pub. L. 89-10, title I, §1803, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, authorized appropriations.

Section 6555, Pub. L. 89-10, title I, §1811, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1610, authorized national activities relating to dropout prevention.

Section 6561, Pub. L. 89-10, title I, §1821, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1612, defined terms in subpart 2 of former part H of this subchapter.

Section 6561a, Pub. L. 89-10, title I, §1822, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1612,

authorized grants for school dropout prevention and re-entry programs.

Section 6561b, Pub. L. 89-10, title I, §1823, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1614, related to applications for grants.

Section 6561c, Pub. L. 89-10, title I, §1824, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1615, related to reservation of funds for administrative costs and State activities.

Section 6561d, Pub. L. 89-10, title I, §1825, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1615, related to strategies and capacity building.

Section 6561e, Pub. L. 89-10, title I, §1826, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to selection of local educational agencies for subgrants.

Section 6561f, Pub. L. 89-10, title I, §1827, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to use of funds by community-based organizations.

Section 6561g, Pub. L. 89-10, title I, §1828, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to technical assistance to secondary schools.

Section 6561h, Pub. L. 89-10, title I, §1829, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to calculation of annual school dropout rate.

Section 6561i, Pub. L. 89-10, title I, §1830, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1616, related to reporting and accountability.

EFFECTIVE DATE

Section effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

PART F—GENERAL PROVISIONS

CODIFICATION

Pub. L. 114-95, title I, §1501(a)(2), Dec. 10, 2015, 129 Stat. 1905, redesignated part I (§6571 et seq.) of this subchapter as part F of this subchapter.

PRIOR PROVISIONS

A prior part F, consisting of sections 6511 to 6518, related to comprehensive school reform, prior to repeal by Pub. L. 114-95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part G, consisting of sections 6531 to 6537, related to advanced placement programs, prior to repeal by Pub. L. 114-95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part H, consisting of sections 6551 to 6553, 6555, and 6561 to 6561i, related to school dropout prevention, prior to repeal by Pub. L. 114-95, title I, §1501(a)(1), Dec. 10, 2015, 129 Stat. 1905.

A prior part I, consisting of sections 6571 to 6578, was redesignated part F of this subchapter, by Pub. L. 114-95, title I, §1501(a)(2), Dec. 10, 2015, 129 Stat. 1905.

§ 6571. Federal regulations

(a) In general

The Secretary may issue, in accordance with subsections (b) through (d) and subject to section 6311(e) of this title, 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, par-

ents, teachers, principals, other school leaders (including charter school leaders), paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information. Such regional meetings and electronic exchanges of information shall be public and notice of such meetings and exchanges shall be provided to interested stakeholders.

(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, assessments under section 6311(b)(2) of this title, and the requirement under section 6321 of this title that funds under part A be used to supplement, and not supplant, State and local funds;

(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 not be subject to the Federal Advisory Committee Act (5 U.S.C. App.); and

(B) shall, unless otherwise provided as described in subsection (c), follow the provisions of subchapter III of chapter 5 of title V¹ (commonly known as the “Negotiated Rulemaking Act of 1990”).

(c) Alternative process for certain exceptions

If consensus, as defined in section 562 of title 5, on any proposed regulation is not reached by the individuals selected under subsection (b)(3)(B) for the negotiated rulemaking process, or if the Secretary determines that a negotiated rulemaking process is unnecessary, the Secretary may propose a regulation in the following manner:

(1) Notice to Congress

Not less than 15 business days prior to issuing a notice of proposed rulemaking in the Federal Register, the Secretary shall provide to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and other relevant congressional committees, notice of the Sec-

retary’s intent to issue a notice of proposed rulemaking that shall include—

(A) a copy of the proposed regulation;

(B) the need to issue the regulation;

(C) the anticipated burden, including the time, cost, and paperwork burden, the regulation will impose on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulation;

(D) the anticipated benefits to State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulation; and

(E) any regulations that will be repealed when the new regulation is issued.

(2) Comment period for Congress

The Secretary shall—

(A) before issuing any notice of proposed rulemaking under this subsection, provide Congress with a comment period of 15 business days to make comments on the proposed regulation, beginning on the date that the Secretary provides the notice of intent to the appropriate committees of Congress under paragraph (1); and

(B) include and seek to address all comments submitted by Congress in the public rulemaking record for the regulation published in the Federal Register.

(3) Comment and review period; emergency situations

The comment and review period for any proposed regulation shall be not less than 60 days unless an emergency requires a shorter period, in which case the Secretary shall—

(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice to Congress under paragraph (1);

(B) publish the length of the comment and review period in such notice and in the Federal Register; and

(C) conduct immediately thereafter regional meetings to review such proposed regulation before issuing any final regulation.

(d) Limitation

Regulations to carry out this subchapter may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(e) Rule of construction

Nothing in this section affects the applicability of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”) or chapter 8 of title 5 (commonly known as the “Congressional Review Act”).

(Pub. L. 89–10, title I, §1601, formerly §1901, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1617; renumbered §1601 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(a), Dec. 10, 2015, 129 Stat. 1906, 1910.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(A), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat.

¹ So in original. Probably should be “5”.

770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1601 of Pub. L. 89–10 was classified to section 6511 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1601 of Pub. L. 89–10 was classified to section 6511 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1601(a)(1), inserted “, in accordance with subsections (b) through (d) and subject to section 6311(e) of this title,” after “may issue”.

Subsec. (b)(1). Pub. L. 114–95, §1601(a)(2)(A), inserted “principals, other school leaders (including charter school leaders),” after “teachers.”

Subsec. (b)(2). Pub. L. 114–95, §1601(a)(2)(B), inserted at end “Such regional meetings and electronic exchanges of information shall be public and notice of such meetings and exchanges shall be provided to interested stakeholders.”

Subsec. (b)(3)(A). Pub. L. 114–95, §1601(a)(2)(C), substituted “standards, assessments under section 6321 of this title that funds under part A be used to supplement, and not supplant, State and local funds” for “standards and assessments”.

Subsec. (b)(4). Pub. L. 114–95, §1601(a)(2)(D), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “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.)”

Subsec. (b)(5). Pub. L. 114–95, §1601(a)(2)(E), struck out par. (5). Text read as follows: “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.”

Subsecs. (c), (d). Pub. L. 114–95, §1601(a)(3)–(5), added subsec. (c), redesignated former subsec. (c) as (d), and in subsec. (d) substituted “this subchapter” for “this part”.

Subsec. (e). Pub. L. 114–95, §1601(a)(6), added subsec. (e).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6572. Agreements and records

(a) Agreements

In any case in which a negotiated rulemaking process is established under section 6571(b) of this title, all published proposed regulations shall conform to agreements that result from the rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process.

(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, §1602, formerly §1902, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1618; renumbered §1602 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(b), Dec. 10, 2015, 129 Stat. 1906, 1912.)

PRIOR PROVISIONS

A prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, §1601(b), amended subsec. (a) generally. Prior to amendment, text read as follows: “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.”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 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) 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;

(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations; and

(ii) eliminate the State rules and regulations that are duplicative of Federal requirements.

(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 academic 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 from traditional public schools and charter schools (if there are charter schools in the State) and career and technical educators;

(D) principals and other school leaders;

(E) parents;

(F) members of local school boards;

(G) representatives of private school children;

(H) specialized instructional support personnel and paraprofessionals;

(I) representatives of authorized public chartering agencies (if there are charter schools in the State); and

(J) charter school leaders (if there are charter schools in the State).

(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, §1603, formerly §1903, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1618; renumbered §1603 and amended Pub. L. 114–95, title I, §§1501(a)(4), 1601(c), Dec. 10, 2015, 129 Stat. 1906, 1912.)

PRIOR PROVISIONS

A prior section 1603 of Pub. L. 89–10 was classified to section 6513 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1603 of Pub. L. 89–10 was classified to section 6513 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a)(1)(E). Pub. L. 114–95, §1601(c)(1)(A), added subpar. (E).

Subsec. (a)(2). Pub. L. 114–95, §1601(c)(1)(B), substituted “the challenging State academic standards” for “the challenging State student academic achievement standards”.

Subsec. (b)(2)(C) to (J). Pub. L. 114–95, §1601(c)(2), added subpars. (C) to (J) and struck out former subpars. (C) to (G) which read as follows:

“(C) teachers, including vocational educators;

“(D) parents;

“(E) members of local school boards;

“(F) representatives of private school children; and

“(G) pupil services personnel.”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive pro-

grams and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6574. Repealed. Pub. L. 113–188, title IX, § 901(a), Nov. 26, 2014, 128 Stat. 2020

Section, Pub. L. 89–10, title I, §1904, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619, related to annual local educational agency spending audits and reports.

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

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

(Pub. L. 89–10, title I, §1604, formerly §1905, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619; renumbered §1604, Pub. L. 114–95, title I, §1501(a)(5), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

A prior section 1604 of Pub. L. 89–10 was classified to section 6514 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1604 of Pub. L. 89–10 was classified to section 6514 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 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, §1605, formerly §1906, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619; renumbered §1605, Pub. L. 114–95, title I, §1501(a)(5), Dec. 10, 2015, 129 Stat. 1906.)

PRIOR PROVISIONS

A prior section 1605 of Pub. L. 89–10 was classified to section 6515 of this title, prior to repeal by Pub. L. 114–95.

§§ 6577, 6578. Repealed. Pub. L. 114–95, title I, § 1501(a)(3), Dec. 10, 2015, 129 Stat. 1906

Section 6577, Pub. L. 89–10, title I, §1907, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619, related to State report on dropout data.

Section 6578, Pub. L. 89–10, title I, §1908, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1620, related to issuance of regulations not later than 6 months after Jan. 8, 2002.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as an Effective Date of 2015 Amendment note under section 6301 of this title.

SUBCHAPTER II—PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

PRIOR PROVISIONS

A prior title II of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was