

**(d) Disproportionality****(1) In general**

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title;

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

**(2) Review and revision of policies, practices, and procedures**

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter;

(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 1413(f) of this title to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

(C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

(Pub. L. 91-230, title VI, § 618, as added Pub. L. 108-446, title I, § 101, Dec. 3, 2004, 118 Stat. 2738.)

**PRIOR PROVISIONS**

A prior section 1418, Pub. L. 91-230, title VI, § 618, as added Pub. L. 105-17, title I, § 101, June 4, 1997, 111 Stat. 101, related to program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1418, Pub. L. 91-230, title VI, § 618, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §§ 3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99-457, title IV, § 406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100-630, title I, § 102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101-476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112, related to evaluation and program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1419. Preschool grants****(a) In general**

The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter—

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

**(b) Eligibility**

A State shall be eligible for a grant under this section if such State—

(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

**(c) Allocations to States****(1) In general**

The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

**(2) Increase in funds**

If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

**(A) Allocation****(i) In general**

Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount the State received under this section for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

**(ii) Data**

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

**(B) Limitations**

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

**(i) Preceding years**

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

**(ii) Minimum**

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1997; and

(bb)  $\frac{1}{3}$  of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

**(iii) Maximum**

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount the State received under this section for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

**(C) Ratable reductions**

If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

**(3) Decrease in funds**

If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

**(A) Allocations**

If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount the State received under this section for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

**(B) Ratable reductions**

If the amount available for allocations is equal to or less than the amount allocated

to the States for fiscal year 1997, each State shall be allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary.

**(d) Reservation for State activities**

**(1) In general**

Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

**(2) Amount described**

For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

**(e) State administration**

**(1) In general**

For the purpose of administering this section (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve under subsection (d) for any fiscal year.

**(2) Administration of subchapter III**

Funds described in paragraph (1) may also be used for the administration of subchapter III.

**(f) Other State-level activities**

Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)—

(1) for support services (including establishing and implementing the mediation process required by section 1415(e) of this title), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

(2) for direct services for children eligible for services under this section;

(3) for activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(15) of this title;

(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year;

(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with subchapter III to

children with disabilities who are eligible for services under this section and who previously received services under subchapter III until such children enter, or are eligible under State law to enter, kindergarten; or

(6) at the State's discretion, to continue service coordination or case management for families who receive services under subchapter III.

**(g) Subgrants to local educational agencies**

**(1) Subgrants required**

Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 1413 of this title, as follows:

**(A) Base payments**

The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 1419(c)(3) of this title, as such section was then in effect.

**(B) Allocation of remaining funds**

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

**(2) Reallocation of funds**

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by the local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.

**(h) Subchapter III inapplicable**

Subchapter III does not apply to any child with a disability receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.

**(i) State defined**

In this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(j) Authorization of appropriations**

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 91-230, title VI, §619, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2740.)

PRIOR PROVISIONS

A prior section 1419, Pub. L. 91-230, title VI, §619, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 102, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1419, Pub. L. 91-230, title VI, §619, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98-199, §§3(b), 9, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99-457, title II, §201(a), Oct. 8, 1986, 100 Stat. 1155; Pub. L. 100-630, title I, §102(i), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101-476, title IX, §901(b)(79)-(93), Oct. 30, 1990, 104 Stat. 1145, 1146; Pub. L. 102-119, §§7, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

A prior section 1420, Pub. L. 91-230, title VI, §620, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358, which related to payments to States and distribution by States to local educational agencies and intermediate educational units, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

Prior sections 1421 to 1427, which comprised former subchapter III of this chapter, were repealed by Pub. L. 105-17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Section 1421, Pub. L. 91-230, title VI, §621, Apr. 13, 1970, 84 Stat. 181; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99-457, title III, §301, Oct. 8, 1986, 100 Stat. 1159; Pub. L. 100-630, title I, §103(b), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101-476, title III, §301, title IX, §901(b)(95)-(99), Oct. 30, 1990, 104 Stat. 1117, 1146; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment and operation of regional and Federal resource centers.

Section 1422, Pub. L. 91-230, title VI, §622, Apr. 13, 1970, 84 Stat. 182; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1364; Pub. L. 99-457, title III, §302, Oct. 8, 1986, 100 Stat. 1160; Pub. L. 100-630, title I, §103(c), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §302, Oct. 30, 1990, 104 Stat. 1118; Pub. L. 102-119, §25(a)(8), Oct. 7, 1991, 105 Stat. 606; Pub. L. 103-382, title III, §391(f)(3), Oct. 20, 1994, 108 Stat. 4023, related to services for deaf-blind children and youth.

Section 1423, Pub. L. 91-230, title VI, §623, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1365; Pub. L. 99-457, title III, §303, Oct. 8, 1986, 100 Stat. 1161; Pub. L. 100-630, title I, §103(d), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §303, title IX, §901(b)(100)-(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147; Pub. L. 102-119, §§8, 25(a)(9), (b), Oct. 7, 1991, 105 Stat. 592, 606, 607, related to early education for children with disabilities.

Section 1424, Pub. L. 91-230, title VI, §624, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1366; Pub. L. 99-457, title III, §304, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100-630, title I, §103(e), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §304, title IX, §901(b)(107)-(110), Oct. 30, 1990, 104 Stat. 1122, 1147; Pub. L. 102-119, §25(a)(10), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to programs for children with severe disabilities.

Section 1424a, Pub. L. 91-230, title VI, §625, as added Pub. L. 93-380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99-457, title III, §305, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100-630, title I, §103(f), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §305, title IX, §901(b)(111)-(118), Oct. 30, 1990, 104 Stat. 1123, 1147; Pub.

L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102-421, title II, §201(a), Oct. 16, 1992, 106 Stat. 2164, related to programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Section 1425, Pub. L. 91-230, title VI, §626, formerly §625, Apr. 13, 1970, 84 Stat. 183, renumbered §626, Pub. L. 93-380, title VI, §616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99-457, title III, §306, Oct. 8, 1986, 100 Stat. 1163; Pub. L. 100-630, title I, §103(g), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101-476, title III, §306, title IX, §901(b)(119)-(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148; Pub. L. 102-119, §25(a)(11), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to secondary education and transitional services for youth with disabilities.

Section 1426, Pub. L. 91-230, title VI, §627, formerly §626, Apr. 13, 1970, 84 Stat. 184, renumbered §627 and amended Pub. L. 93-380, title VI, §§616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95-49, §2, June 17, 1977, 91 Stat. 230; Pub. L. 98-199, §10, Dec. 2, 1983, 97 Stat. 1368; Pub. L. 101-476, title III, §307, Oct. 30, 1990, 104 Stat. 1127, related to programs for children and youth with serious emotional disturbance.

Section 1427, Pub. L. 91-230, title VI, §628, as added Pub. L. 98-199, §10, Dec. 2, 1983, 97 Stat. 1368; amended Pub. L. 99-457, title III, §307, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 101-476, title III, §308, Oct. 30, 1990, 104 Stat. 1128, authorized appropriations.

#### PRESCHOOL GRANTS

Pub. L. 100-630, title I, §110, Nov. 7, 1988, 102 Stat. 3303, as amended by Pub. L. 101-476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)]."

### SUBCHAPTER III—INFANTS AND TODDLERS WITH DISABILITIES

#### § 1431. Findings and policy

##### (a) Findings

Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to maximize the potential for individuals with disabilities to live independently in society;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.

##### (b) Policy

It is the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

(Pub. L. 91-230, title VI, §631, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2744.)

#### PRIOR PROVISIONS

A prior section 1431, Pub. L. 91-230, title VI, §631, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 106, set out findings and policy, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1431, Pub. L. 91-230, title VI, §631, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98-199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1369; Pub. L. 99-457, title III, §308, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 100-630, title I, §104(b), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101-476, title IV, §401, title IX, §901(b)(129)-(142), Oct. 30, 1990, 104 Stat. 1129, 1148; Pub. L. 102-119, §§9(a), (b), 25(a)(12), (b), Oct. 7, 1991, 105 Stat. 593, 594, 606, 607; Pub. L. 102-421, title II, §202, Oct. 16, 1992, 106 Stat. 2165; Pub. L. 102-569, title IX, §912(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103-73, title III, §302, Aug. 11, 1993, 107 Stat. 736; Pub. L. 103-218, title IV, §401, Mar. 9, 1994, 108 Stat. 95, related to grants for personnel training, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

#### EFFECTIVE DATE

Subchapter effective July 1, 2005, see section 302(a) of Pub. L. 108-446, set out as a note under section 1400 of this title.

#### § 1432. Definitions

In this subchapter:

##### (1) At-risk infant or toddler

The term "at-risk infant or toddler" means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

##### (2) Council

The term "council" means a State interagency coordinating council established under section 1441 of this title.

##### (3) Developmental delay

The term "developmental delay", when used with respect to an individual residing in a State, has the meaning given such term by the State under section 1435(a)(1) of this title.

##### (4) Early intervention services

The term "early intervention services" means developmental services that—

(A) are provided under public supervision;