

comments by the Commission on the plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate within twelve months after December 22, 1980. Revisions to the plan shall be transmitted to such committees whenever deemed appropriate by the Secretary.

(Pub. L. 96-567, § 8, Dec. 22, 1980, 94 Stat. 3332; Pub. L. 104-66, title I, § 1051(l), Dec. 21, 1995, 109 Stat. 717.)

### Editorial Notes

#### AMENDMENTS

1995—Subsec. (c). Pub. L. 104-66 struck out subsec. (c) which directed Secretary of Energy to transmit to Congress, concurrently with submission of President's annual budget to Congress, detailed description of comprehensive plan as then in effect.

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

### Executive Documents

#### TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

## § 9708. Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this chapter such sums as may be authorized by legislation hereafter enacted.

(Pub. L. 96-567, § 9, Dec. 22, 1980, 94 Stat. 3333.)

## CHAPTER 105—COMMUNITY SERVICES PROGRAMS

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#### SUBCHAPTER I—COMMUNITY ECONOMIC DEVELOPMENT

##### Editorial Notes

##### CODIFICATION

Subchapter is based on subchapter A of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 489, as amended.

##### § 9801. Statement of purpose

The purpose of this subchapter is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

(Pub. L. 97-35, title VI, §612, Aug. 13, 1981, 95 Stat. 489.)

##### Statutory Notes and Related Subsidiaries

##### SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113-186, §1, Nov. 19, 2014, 128 Stat. 1971, provided that: “This Act [enacting sections 9858f and 9858r

of this title and amending sections 9858, 9858b to 9858e, 9858g, 9858i, 9858j, and 9858m to 9858o of this title and provisions set out as notes under this section and section 9858 of this title] may be cited as the ‘Child Care and Development Block Grant Act of 2014.’”

##### SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-134, §1(a), Dec. 12, 2007, 121 Stat. 1363, provided that: “This Act [enacting sections 9837b and 9852a to 9852c of this title and amending sections 1758, 1766, 9831 to 9835, 9836 to 9844, 9846, 9848, 9850, and 9851 of this title and sections 6312 and 9409 of Title 20, Education] may be cited as the ‘Improving Head Start for School Readiness Act of 2007.’”

##### SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-285, §1, Oct. 27, 1998, 112 Stat. 2702, provided that: “This Act [see Tables for classification] may be cited as the ‘Community Opportunities, Accountability, and Training and Educational Services Act of 1998’ or the ‘Coats Human Services Reauthorization Act of 1998.’”

Pub. L. 105-285, title I, §101, Oct. 27, 1998, 112 Stat. 2703, provided that: “This title [enacting section 9837a of this title, amending sections 9831 to 9835, 9836 to 9837, 9838 to 9840a, 9843 to 9844, and 9846 of this title, and repealing sections 9852a and 9855 to 9855g of this title and provisions set out as a note under this section] may be cited as the ‘Head Start Amendments of 1998.’”

##### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-193, title VI, §601(a), Aug. 22, 1996, 110 Stat. 2278, provided that: “This title [enacting section 618 of this title, amending sections 9858, 9858b to 9858e, 9858g to 9858j, 9858m, and 9858n of this title, repealing section 9858f of this title, enacting provisions set out as notes under section 9858 of this title, and amending provisions set out as a note below] may be cited as the ‘Child Care and Development Block Grant Amendments of 1996.’”

##### SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-252, §1, May 18, 1994, 108 Stat. 623, provided that: “This Act [see Tables for classification] may be cited as the ‘Human Services Amendments of 1994.’”

Pub. L. 103-252, title I, §101(a), May 18, 1994, 108 Stat. 624, provided that: “This title [enacting sections 9836a, 9840a, 9843a, and 9852a of this title, transferring sections 3161 to 3161g of Title 20, Education, to sections 1235 to 1235g of Title 20, respectively, amending sections 1396r-5, 9832 to 9835, 9836, 9837, 9839, 9840, 9841, 9843, 9844, 9846, 9855a, 9871, and 10905 of this title and sections 1235, 1235a, and 1235c to 1235e of Title 20, repealing sections 9835a, 9845, 9846a, 9847, and 9881 to 9887 of this title, enacting provisions set out as notes under sections 9832, 9839, 9844, and 9881 of this title, and repealing provisions set out as notes under this section and section 9881 of this title] may be cited as the ‘Head Start Act Amendments of 1994.’”

##### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-401, §1, Oct. 7, 1992, 106 Stat. 1956, provided that: “This Act [amending sections 9835 to 9839, 9846, 9846a, and 9858n of this title and enacting provisions set out as notes under sections 9835 and 9836 of this title] may be cited as the ‘Head Start Improvement Act of 1992.’”

##### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-501, §1(a), Nov. 3, 1990, 104 Stat. 1222, provided that: “This Act [see Tables for classification] may be cited as the ‘Augustus F. Hawkins Human Services Reauthorization Act of 1990.’”

Pub. L. 101-501, title I, §101, Nov. 3, 1990, 104 Stat. 1224, provided that: “This subtitle [subtitle A (§§101-123) of title I of Pub. L. 101-501, enacting sections 9835a and 9846a of this title and amending sections 9831, 9832, 9834, 9835, 9836 to 9841, 9843 to 9846, 9847, and 9848 of

this title] may be cited as the ‘Head Start Expansion and Quality Improvement Act’.”

Pub. L. 101-501, title I, §131, Nov. 3, 1990, 104 Stat. 1238, provided that subtitle B (§§131-140) of title I of Pub. L. 101-501, enacting subchapter II-A of this chapter and amending section 9834 of this title, could be cited as the ‘Head Start Transition Project Act’, prior to repeal by Pub. L. 105-285, title I, §119, Oct. 27, 1998, 112 Stat. 2728.

#### SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-120, §1, Oct. 23, 1989, 103 Stat. 700, provided that: “This Act [amending section 9834 of this title] may be cited as the ‘Head Start Supplemental Authorization Act of 1989’.”

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-297, title II, §2501, Apr. 28, 1988, 102 Stat. 325, provided that part E (§§2501-2504) of title II of Pub. L. 100-297, which enacted subchapter V of this chapter, amended section 9833 of this title, and enacted provisions set out as notes under this section and section 9881 of this title, could be cited as the ‘Comprehensive Child Development Centers Act of 1988’, prior to repeal by Pub. L. 103-252, title I, §112(b)(1), (2)(A), May 18, 1994, 108 Stat. 640, 641.

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-425, §1, Sept. 30, 1986, 100 Stat. 966, provided: “That this Act [enacting sections 8628a, 9812a, 9910b, and 10901 to 10905 of this title, amending sections 8621, 8623, 8624, 8629, 9803, 9834, 9835, 9837, 9840, 9862, 9867, 9871, 9874, 9877, 9901 to 9904, 9905a, 9908 to 9910, and 9910a of this title and section 4033 of Title 20, Education, enacting provisions set out as notes under this section and sections 8621, 8623, and 10901 of this title, and amending provisions set out as notes under section 9861 of this title and section 1932 of Title 7, Agriculture] may be cited as the ‘Human Services Reauthorization Act of 1986’.”

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-558, §1, Oct. 30, 1984, 98 Stat. 2878, provided: “That this Act [enacting sections 9871 to 9877, 9905a, and 9910a of this title and sections 1070d-31 to 1070d-41, 1119d to 1119d-8, 1119e to 1119e-5, and 4201 to 4206 of Title 20, Education, amending sections 2991b, 2992b to 2992d, 6862, 6865, 8621 to 8624, 8626, 8627, 8629, 9832, 9834 to 9836, 9840, 9843, 9844, 9846, 9862, 9901, 9902, 9904, 9908, and 9910 of this title and section 4061 of Title 20, enacting provisions set out as notes under sections 2991, 8621, and 9904 of this title, and amending provisions set out as a note under section 9861 of this title] may be cited as the ‘Human Services Reauthorization Act’.”

#### SHORT TITLE

Pub. L. 97-35, title VI, §611, Aug. 13, 1981, 95 Stat. 489, provided that: “This subchapter [subchapter A (§§611-633) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, enacting this subchapter] may be cited as the ‘Community Economic Development Act of 1981’.”

Pub. L. 97-35, title VI, §635, Aug. 13, 1981, 95 Stat. 499, provided that: “This subchapter [subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, enacting subchapter II of this chapter] may be cited as the ‘Head Start Act’.”

Pub. L. 97-35, title VI, subtitle A, ch. 8, subch. C, §658A(a), as added by Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-236, and amended by Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, §602(2), Aug. 22, 1996, 110 Stat. 2279; Pub. L. 113-186, §2, Nov. 19, 2014, 128 Stat. 1971, which provided that subchapter II-B of this chapter could be cited as the ‘Child Care and Development Block Grant Act of 1990’ and was formerly set out as a note under this section, was transferred to section 9857(a) of this title.

Pub. L. 97-35, title VI, subtitle A, ch. 8, subch. D, §661, formerly subch. C, §661, Aug. 13, 1981, 95 Stat. 508, as re-

numbered by Pub. L. 101-508, title V, §5082(1), Nov. 5, 1990, 104 Stat. 1388-236, and amended by Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036, provided that former subchapter III of this chapter could be cited as the ‘Follow Through Act’, prior to repeal by Pub. L. 103-382, title III, §391(w), Oct. 20, 1994, 108 Stat. 4025.

Pub. L. 97-35, title VI, subtitle A, ch. 8, subch. E, §670H, formerly subch. D, §670H, as added by Pub. L. 99-425, title III, §304, Sept. 30, 1986, 100 Stat. 968, renumbered by Pub. L. 101-508, title V, §5082(1), Nov. 5, 1990, 104 Stat. 1388-236, and amended by Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036, provided that: “This subchapter [subchapter E (§§670A-670H), formerly subchapter D, of chapter 8 of subtitle A of title VI of Pub. L. 97-35, enacting subchapter IV of this chapter] may be cited as the ‘State Dependent Care Development Grants Act’.”

Pub. L. 97-35, title VI, subtitle A, ch. 8, subch. F, §670M, formerly subch. E, §670M, as added by Pub. L. 100-297, title II, §2503, Apr. 28, 1988, 102 Stat. 325, renumbered by Pub. L. 101-508, title V, §5082(1), Nov. 5, 1990, 104 Stat. 1388-236, and amended by Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036, provided that former subchapter V of this chapter could be cited as the ‘Comprehensive Child Development Act’, prior to repeal by Pub. L. 103-252, title I, §112(b)(1), (2)(B), May 18, 1994, 108 Stat. 640, 641.

#### INCONSISTENT LAWS SUPERSEDED DURING FISCAL YEARS 1982, 1983, AND 1984

Pub. L. 97-35, title VI, §601, Aug. 13, 1981, 95 Stat. 483, provided that:

“(a) Any provision of law which is not consistent with the provisions of this subtitle [subtitle A (§§601-670) of title VI of Pub. L. 97-35, see Tables for classification] hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

“(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle, no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.”

#### § 9802. “Community development corporation” defined

For purposes of this subchapter, the term “community development corporation” means a nonprofit organization responsible to residents of the area it serves which is receiving financial assistance under part A and any organization more than 50 percent of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter.

(Pub. L. 97-35, title VI, §613, Aug. 13, 1981, 95 Stat. 489.)

#### § 9803. Repealed. Pub. L. 105-285, title II, § 202(b)(1), Oct. 27, 1998, 112 Stat. 2755

Section, Pub. L. 97-35, title VI, §614, Aug. 13, 1981, 95 Stat. 489; Pub. L. 99-425, title IV, §405(c)(3), Sept. 30, 1986, 100 Stat. 970, related to source of funds for carrying out this subchapter.

#### § 9804. Advisory Community Investment Board

##### (a) National Community Investment Board; functions, composition, etc.

(1) The President is authorized to establish a National Advisory Community Investment Board (hereinafter in this section referred to as

the “Investment Board”). Such Investment Board shall be composed of 15 members appointed, for staggered terms and without regard to the civil service laws, by the President, in consultation with the Secretary of Health and Human Services (hereinafter in this subchapter referred to as the “Secretary”). Such members shall be representative of the investment and business communities and appropriate fields of endeavor related to this subchapter. The Investment Board shall meet at the call of the chairperson, but not less often than 3 times each year. The Secretary and the administrator of community economic development programs shall be ex officio members of the Investment Board.

(2) The Secretary shall carry out the provisions of this subchapter through an appropriate office.

**(b) Function**

The Investment Board shall promote cooperation between private investors and businesses and community development corporation projects through—

- (1) advising the Secretary and the community development corporations on ways to facilitate private investment;
- (2) advising businesses and other investors of opportunities in community development corporation projects; and
- (3) advising the Secretary, community development corporations, and private investors and businesses of ways in which they might engage in mutually beneficial efforts.

**(c) Local advisory community investment boards; establishment, composition, etc.**

The governing body of each Community Development Corporation may establish an advisory community investment board composed of not to exceed 15 members who shall be appointed by the governing body after consultation with appropriate local officials. Each such board shall promote cooperation between private investors and businesses and the governing body of the Community Development Corporation through—

- (1) advising the governing body on ways to facilitate private investors;
- (2) advising businesses and other investors of opportunities in Community Development Corporation projects; and
- (3) advising the governing body, private investors, and businesses of ways in which they might engage in mutually beneficial efforts.

(Pub. L. 97-35, title VI, §615, Aug. 13, 1981, 95 Stat. 489; Pub. L. 105-285, title II, §202(b)(2), Oct. 27, 1998, 112 Stat. 2755.)

**Editorial Notes**

**AMENDMENTS**

1998—Subsec. (a)(2). Pub. L. 105-285 substituted “through an appropriate office” for “through the Office of Community Services established in section 9905(a) of this title”.

**Statutory Notes and Related Subsidiaries**

**TERMINATION OF ADVISORY BOARDS**

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year pe-

riod beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

**PART A—URBAN AND RURAL SPECIAL IMPACT PROGRAMS**

**§ 9805. Statement of purpose**

The purpose of this part is to establish special programs of assistance to nonprofit private locally initiated community development corporations which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration; (3) hold forth the prospect of continuing to have such impact after the termination of financial assistance under this part; and (4) provide financial and other assistance to start, expand, or locate enterprises in or near the area to be served so as to provide employment and ownership opportunities for residents of such areas, including those who are disadvantaged in the labor market because of their limited speaking, reading, and writing abilities in the English language.

(Pub. L. 97-35, title VI, §616, Aug. 13, 1981, 95 Stat. 490.)

**§ 9806. Establishment and scope of programs**

(a) The Secretary is authorized to provide financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations for the payment of all or part of the cost of programs which are designed to carry out the purposes of this part. Financial assistance shall be provided so that each community economic development program is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

- (1) community business and commercial development programs, including (A) programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the area served so as to provide employment and ownership opportunities for residents of such areas; and (B) programs for small businesses located in or owned by residents of such areas;

(2) community physical development programs, including industrial parks and housing activities, which contribute to an improved environment and which create new training, employment and ownership opportunities for residents of such area;

- (3) training and public service employment programs and related services for unemployed

or low-income persons which support and complement community development programs financed under this part, including, without limitation, activities such as the activities described in title I of the Workforce Investment Act of 1998;<sup>1</sup> and

(4) social service programs which support and complement community business and commercial development programs financed under this part, including child care, educational services, health services, credit counseling, energy conservation, recreation services, and programs for the maintenance of housing facilities.

(b) The Secretary shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas.

(Pub. L. 97-35, title VI, § 617, Aug. 13, 1981, 95 Stat. 491; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(40), (f)(31)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-427, 2681-434.)

### Editorial Notes

#### REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(3), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to former chapter 30 (former § 2801 et seq.) of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(31)], struck out “the Job Training Partnership Act or” after “activities described in”.

Pub. L. 105-277, § 101(f) [title VIII, § 405(d)(40)], substituted “activities such as the activities described in the Job Training Partnership Act or title I of the Workforce Investment Act of 1998” for “activities such as those described in the Comprehensive Employment and Training Act”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(40)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(31)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

### § 9807. Financial assistance requirements

#### (a) Conditions

The Secretary, under such regulations as the Secretary may establish, shall not provide fi-

nanacial assistance for any community economic development program under this part unless the Secretary determines that—

(1) such community development corporation is responsible to residents of the area served (A) through a governing body not less than 50 percent of the members of which are area residents; and (B) in accordance with such other guidelines as may be established by the Secretary, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement;

(2) the program will be appropriately coordinated with local planning under this subchapter with housing and community development programs, with employment and training programs, and with other relevant planning for physical and human resources in the areas served;

(3) adequate technical assistance is made available and committed to the programs being supported;

(4) such financial assistance will materially further the purposes of this part;

(5) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met;

(6) all projects and related facilities will, to the maximum feasible extent, be located in the areas served;

(7) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing, cooperatively or otherwise, by residents of the area served;

(8) projects will be planned and carried out with the fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purposes of this subchapter;

(9) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(10) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal or other funds in connection with work that would otherwise be performed;

(11) the rates of pay for time spent in work training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) preference will be given to low-income or economically disadvantaged residents of

<sup>1</sup> See References in Text note below.

the areas served in filling jobs and training opportunities; and

(14) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas other than those for which programs are established under this part.

**(b) Relocations substantially increasing unemployment**

Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in a substantial increase in unemployment in the area of original location.

**(c) Community economic development program; application; specification of goals**

Financial assistance for commercial development under this part shall not be extended until the community economic development program that has applied for assistance under this subchapter has specified in some detail its development goals and its development timetable. The Secretary, in providing continued financial assistance to a community economic development program, shall give serious consideration to the experience such program has had in meeting development goals or in adhering to development timetables.

(Pub. L. 97-35, title VI, §618, Aug. 13, 1981, 95 Stat. 491.)

**§ 9808. Federal share; amount; availability; ownership of property acquired with Federal financial assistance**

(a)(1) Assistance provided under this subchapter to any program described in section 9807(a) of this title shall not exceed 90 percent of the cost of such program, including costs of administration, unless the Secretary determines that the assistance in excess of such percentage is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(2) The assistance referred to in paragraph (1) shall be made available (A) for deposit to the order of grantees which have demonstrated successful program performance, under conditions which the Secretary deems appropriate, within 30 days following approval of the grant agreement by the Secretary and such grantee; or (B) whenever the Secretary deems appropriate, in accordance with applicable rules and regulations prescribed by the Secretary of the Treasury, and including any other conditions which the Secretary of Health and Human Services deems appropriate, within 30 days following approval of the grant agreement by the Secretary and such grantee.

(b) Property acquired as a result of capital investments made by any community development corporation with funds granted as its Federal share of the cost of programs carried out under this subchapter, and the proceeds from

such property, shall become the property of the community development corporation and shall not be considered to be Federal property. The Federal Government retains the right to direct that on severance of the grant relationship the assets purchased with grant funds shall continue to be used for the original purpose for which they were granted.

(Pub. L. 97-35, title VI, §619, Aug. 13, 1981, 95 Stat. 493.)

**PART B—SPECIAL RURAL PROGRAMS**

**§ 9809. Statement of purpose**

It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence, as a supplement to existing similar programs conducted by other departments and agencies of the Federal Government. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise.

(Pub. L. 97-35, title VI, §620, Aug. 13, 1981, 95 Stat. 493.)

**§ 9810. Financial assistance to low-income families, local cooperative associations, and local public or private nonprofit organizations or entities; amount, purposes, etc.**

(a) The Secretary is authorized to provide financial assistance, including loans having a maximum maturity of fifteen years and in amounts not resulting in an aggregate principal indebtedness of more than \$3,500 at any one time, to any low-income rural family where, in the judgment of the Secretary, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

(3) participate in cooperative associations, or finance nonagricultural<sup>1</sup> enterprises which will enable such families to supplement their income.

(b) The Secretary is authorized to provide financial assistance to local cooperative associations or local public and private nonprofit organizations or agencies in rural areas containing concentrations or substantial numbers of low-income persons for the purpose of defraying all or part of the costs of establishing and operating cooperative programs for farming, purchasing, marketing, processing, and to improve their income as producers and their purchasing power as consumers, and to provide such essentials as credit and health services. Costs which may be defrayed shall include—

<sup>1</sup> So in original. Probably should be “nonagricultural”.

- (1) administrative costs of staff and overhead;
- (2) costs of planning and developing new enterprises;
- (3) costs of acquiring technical assistance; and
- (4) initial capital where it is determined by the Secretary that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

(Pub. L. 97-35, title VI, § 621, Aug. 13, 1981, 95 Stat. 493.)

#### **§ 9811. Limitation on assistance**

No financial assistance shall be provided under this part unless the Secretary determines that—

- (1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;
- (2) adequate technical assistance is made available and committed to the programs being supported;
- (3) such financial assistance will materially further the purposes of this part; and
- (4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

(Pub. L. 97-35, title VI, § 622, Aug. 13, 1981, 95 Stat. 494.)

#### **PART C—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS**

#### **§ 9812. Development loan fund**

##### **(a) Authorities, scope, and purposes; conditions; interest rate; repayment**

The Secretary is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations, to families and local cooperatives and the designated supportive organizations of cooperatives eligible for financial assistance under this subchapter, to private nonprofit organizations receiving assistance under chapter 106 of this title, or to public and private nonprofit organizations or agencies, for business facilities and community development projects, including community development credit unions, which the Secretary determines will carry out the purposes of this part. No loans, guarantees, or other financial assistance shall be provided under this section unless the Secretary determines that—

- (1) there is reasonable assurance of repayment of the loan;
- (2) the loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and
- (3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made.

Loans made by the Secretary pursuant to this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average

market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge, if any, toward covering other costs of the program as the Secretary of Health and Human Services may determine to be consistent with its purposes, except that, for the 5 years following the date in which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Secretary in light of the particular needs of the borrower, which rate shall not be lower than 1 percent. All such loans shall be repayable within a period of not more than 30 years.

##### **(b) Adjustment of interest rates, moratorium on principal and interest, etc.**

The Secretary is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by the Secretary, and to take such other actions in respect to such loans as the Secretary shall determine to be necessary or appropriate, consistent with the purposes of this section.

##### **(c) Establishment, funding, etc.**

(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

(2) The Rural Development Loan Fund shall consist of the remaining funds provided for in part A of title III of the Economic Opportunity Act of 1964 [42 U.S.C. 2841 et seq.], as in effect on September 19, 1972, and such amounts as may be deposited in such fund by the Secretary out of funds made available from appropriations for purposes of carrying out this part. The Secretary shall utilize the services of the Farmers Home Administration,<sup>1</sup> or the Rural Development Administration in administering such fund.

(3) The Community Development Loan Fund shall consist of such amounts as may be deposited in such fund by the Secretary out of funds made available from appropriations for purposes of carrying out this subchapter. The Secretary may make deposits in the Community Development Loan Fund in any fiscal year in which the Secretary has made available for grants to community development corporations under this subchapter not less than \$60,000,000 out of funds made available from appropriations for purposes of carrying out this subchapter.

(Pub. L. 97-35, title VI, § 623, Aug. 13, 1981, 95 Stat. 494; Pub. L. 101-624, title XXIII, § 2303(f)(1), Nov. 28, 1990, 104 Stat. 3981.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

Chapter 106 of this title, referred to in subsec. (a), was in the original "subtitle B of this title", meaning sub-

<sup>1</sup> So in original. The comma probably should not appear.

title B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, known as the Community Services Block Grant Act, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (c)(2), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Part A of title III of the Economic Opportunity Act of 1964 was classified generally to part A (§2841 et seq.) of subchapter III of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1990—Subsec. (c)(2). Pub. L. 101-624 inserted “, or the Rural Development Administration” after “Farmers Home Administration”.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

Functions relating to administration of Community Development Credit Union Revolving Loan Fund transferred from Secretary of Health and Human Services to National Credit Union Administration Board by Pub. L. 99-609, set out as a note under section 9822 of this title.

#### § 9812a. Interest rates payable on certain rural development loans; assignment of loan contracts

##### (a) Modification of interest rates

Notwithstanding any other provision of law—

- (1) any outstanding loan made after December 31, 1982, by the Secretary of Health and Human Services; or
- (2) any loan made after September 30, 1986;

with moneys from the Rural Development Loan Fund established by section 9812(c)(1) of this title or with funds available (before October 27, 1998) under section 9910(a) of this title (as in effect before October 27, 1998) to an intermediary borrower shall bear interest at a fixed rate equal to the rate of interest that was in effect on the date of issuance for loans made in 1980 with such moneys or such funds if the weighted average rate of interest for all loans made after December 31, 1982, by such intermediary borrower with such moneys or such funds does not exceed the sum of 6 percent and the rate of interest payable under this subsection by such intermediary borrower.

##### (b) Assignment of certain loan contracts

Any contract for a loan made during the period beginning on December 31, 1982, and ending on September 30, 1986, with—

- (1) moneys from the Rural Development Loan Fund established by section 9812(c)(1) of this title; or
- (2) funds available (before October 27, 1998) under section 9910(a) of this title (as in effect before October 27, 1998);

to an intermediary borrower that is a county government may be assigned by such borrower to an entity to which such loan could have been made for the purpose for which such contract was made. Any entity to which such contract is so assigned shall be substituted as a party to such contract and shall be obligated to carry out such contract and the purpose for which such contract was made.

(Pub. L. 99-425, title IV, §407(a), (b), Sept. 30, 1986, 100 Stat. 971; Pub. L. 105-285, title II, §202(c), Oct. 27, 1998, 112 Stat. 2755.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 9910 of this title, referred to in subsecs. (a) and (b)(2), was in the original a reference to section 681 of Pub. L. 97-35. Section 681 of Pub. L. 97-35 was omitted, and a new section 681 enacted, in the general amendment of chapter 106 of this title by Pub. L. 105-285, title II, §201, Oct. 27, 1998, 112 Stat. 2728. The new section 681 is classified to section 9922 of this title.

##### CODIFICATION

Section was enacted as part of the Human Services Reauthorization Act of 1986, and not as part of the Community Economic Development Act of 1981 which comprises this subchapter.

##### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-285, §202(c)(1), in concluding provisions, inserted “(before October 27, 1998)” after “funds available” and “(as in effect before October 27, 1998)” after “9910(a) of this title”.

Subsec. (b)(2). Pub. L. 105-285, §202(c)(2), inserted “(before October 27, 1998)” after “funds available” and “(as in effect before October 27, 1998)” after “9910(a) of this title”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as an Effective Date of 1986 Amendment note under section 8621 of this title.

##### TRANSFER OF LOAN BY UTAH OR OHIO LOCAL PUBLIC BODY TO NONPROFIT CORPORATION

Pub. L. 99-500, §101(a) [title VI, §640], Oct. 18, 1986, 100 Stat. 1783, 1783-35, and Pub. L. 99-591, §101(a) [title VI, §640], Oct. 30, 1986, 100 Stat. 3341, 3341-35, purported to amend section 623B(b)(2) of the Community Economic Development Act of 1981, a nonexistent section of that Act (Pub. L. 99-35, title VI, §611 et seq.), by adding at the end thereof the following new sentence: “Notwithstanding any other provision of law, any Utah or Ohio local public body to which a loan was made after December 31, 1982, from the Rural Development Loan Fund may, at the discretion of such local public body and with the approval of the Secretary of Health and Human Services, transfer such loan to a nonprofit corporation designated by such body to serve as an intermediate borrower and to carry out the purposes of the loan.”

#### § 9813. Model Community Economic Development Finance Corporation; establishment; functions

To the extent he deems appropriate, the Secretary shall utilize funds available under this part to prepare a plan of action for the establishment of a Model Community Economic Development Finance Corporation to provide a user-controlled independent and professionally operated long-term financing vehicle with the principal purpose of providing financial support for community economic development corporations, cooperatives, other affiliated and supportive agencies and organizations associated with community economic development corporations, and other entities eligible for assistance under this subchapter.

(Pub. L. 97-35, title VI, §624, Aug. 13, 1981, 95 Stat. 495.)

## PART D—SUPPORTIVE PROGRAMS AND ACTIVITIES

**§ 9814. Training and technical assistance****(a) Grants, contracts, and other arrangements; preconditions**

The Secretary shall provide, directly or through grants, contracts, or other arrangements, such technical assistance and training of personnel as may be required to effectively implement the purposes of this subchapter. No financial assistance shall be provided to any public or private organization under this section unless the Secretary provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

**(b) Technical assistance to community development corporations and urban and rural cooperatives**

Technical assistance to community development corporations and both urban and rural cooperatives may include planning, management, legal assistance or support, preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this subchapter.

**(c) Training for employees of community development corporations and employees and members of urban and rural cooperatives**

Training for employees of community development corporations and for employees and members of urban and rural cooperatives shall include on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which will contribute to the effectiveness of programs assisted under this subchapter.

(Pub. L. 97-35, title VI, § 625, Aug. 13, 1981, 95 Stat. 496.)

**§ 9815. Small Business Administration and Department of Commerce economic development programs; regulations**

(a)(1) Funds granted under this subchapter which are invested directly or indirectly, in a small investment company, local development company, limited small business investment company, or small business investment company licensee under section 681(d)<sup>1</sup> of title 15 shall be included as “private paid-in capital and paid-in surplus”, “combined paid-in capital and paid-in surplus”, and “paid-in capital” for purposes of sections 682, 683, and 696, respectively, of title 15.

(2) Not later than 90 days after August 13, 1981, the Administrator of the Small Business Administration, after consultation with the Secretary, shall promulgate regulations to ensure the availability to community development corporations of such programs as shall further the purposes of this subchapter, including programs under section 637(a) of title 15.

<sup>1</sup> See References in Text note below.

(b)(1) Areas selected for assistance under this subchapter shall be deemed “redevelopment areas” within the meaning of section 401 of the Public<sup>2</sup> Works and Economic Development Act of 1965,<sup>1</sup> shall qualify for assistance under the provisions of title I and title II of such Act, and shall be deemed to have met the overall economic development program requirements of section 202(b)(10) of such Act.

(2) Not later than 90 days after August 13, 1981, the Secretary of Commerce shall prescribe regulations which will ensure that community development corporations and cooperatives shall qualify for assistance and shall be eligible to receive such assistance under all such programs of the Economic Development Administration as shall further the purposes of this subchapter.

(Pub. L. 97-35, title VI, § 626, Aug. 13, 1981, 95 Stat. 496.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 681(d) of title 15, referred to in subsec. (a)(1), was repealed by Pub. L. 104-208, div. D, title II, § 208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009-742.

The Public Works and Economic Development Act of 1965, referred to in subsec. (b)(1), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Titles I to VI of the Act of 1965 were repealed and new titles I to VI were enacted by Pub. L. 105-393, title I, § 102(a), Nov. 13, 1998, 112 Stat. 3597. As so enacted, section 401 of the Act no longer defines “redevelopment areas” and section 202 of the Act no longer contains a subsec. (b). For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

**§ 9816. Department of Housing and Urban Development programs**

The Secretary of Housing and Urban Development, after consultation with the Secretary, shall take all necessary steps to assist community development corporations and local cooperative associations to qualify for and receive (1) such assistance in connection with technical assistance, counseling to tenants and homeowners, and loans to sponsors of low-income and moderate-income housing under section 106 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701x], as amended by section 811 of the Housing and Community Development Act of 1974; (2) such land for housing and business location and expansion under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.]; and (3) such funds for comprehensive planning under section 701 of the Housing Act of 1954,<sup>1</sup> as amended by section 401 of the Housing and Community Development Act of 1974, as shall further the purposes of this subchapter.

(Pub. L. 97-35, title VI, § 627, Aug. 13, 1981, 95 Stat. 497.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 811 of the Housing and Community Development Act of 1974, referred to in text, is section 811 of

<sup>2</sup> So in original. Probably should be “Public”.

<sup>1</sup> See References in Text note below.

Pub. L. 93-383, title VIII, Aug. 22, 1974, 88 Stat. 735, which amended section 1701x of Title 12, Banks and Banking.

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 701 of the Housing Act of 1954, referred to in text, is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97-35, title III, 313(b), Aug. 13, 1981, 95 Stat. 398.

Section 401 of the Housing and Community Development Act of 1974, referred to in text, is section 401 of Pub. L. 93-383, title IV, Aug. 22, 1974, 88 Stat. 686, subsecs. (a) and (b) of which amended section 461 of former Title 40, Public Buildings, Property, and Works, prior to its repeal by Pub. L. 97-35, and subsec. (c) of which amended section 460 of former Title 40.

#### Statutory Notes and Related Subsidiaries

##### CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING

Pub. L. 103-120, §4, Oct. 27, 1993, 107 Stat. 1148, as amended by Pub. L. 105-18, title II, §10004, June 12, 1997, 111 Stat. 201, provided that:

“(a) IN GENERAL.—The Secretary is authorized to provide assistance through the National Community Development Initiative, Local Initiatives Support Corporation, The Enterprise Foundation, Habitat for Humanity, and Youthbuild USA to develop the capacity and ability of community development corporations and community housing development organizations to undertake community development and affordable housing projects and programs.

“(b) FORM OF ASSISTANCE.—Assistance under this section may be used for—

“(1) training, education, support, and advice to enhance the technical and administrative capabilities of community development corporations and community housing development organizations;

“(2) loans, grants, or predevelopment assistance to community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families; and

“(3) such other activities as may be determined by the National Community Development Initiative, Local Initiatives Support Corporation, The Enterprise Foundation, Habitat for Humanity, and Youthbuild USA in consultation with the Secretary.

“(c) MATCHING REQUIREMENT.—Assistance provided under this section shall be matched from private sources in an amount equal to 3 times the amount made available under this section.

“(d) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

“(e) AUTHORIZATION.—There are authorized to be appropriated \$25,000,000 for fiscal year 1994 to carry out this section.”

#### § 9817. Department of Agriculture; Rural Development Administration programs

The Secretary of Agriculture or, where appropriate, the Administrator of the Farmers Home Administration, or of the Rural Development Administration, after consultation with the Secretary of Health and Human Services, shall take all necessary steps to ensure that community development corporations and local cooperative associations shall qualify for and shall receive—

(1) such assistance in connection with housing development under the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.];

(2) such assistance in connection with housing, business, industrial, and community development under the Consolidated Farmers Home Administration Act of 1961 [7 U.S.C. 1921 et seq.] and the Rural Development Act of 1972; and

(3) such further assistance under all such programs of the United States Department of Agriculture; as shall further the purposes of this subchapter.

(Pub. L. 97-35, title VI, §628, Aug. 13, 1981, 95 Stat. 497; Pub. L. 101-624, title XXIII, §2303(f)(2), Nov. 28, 1990, 104 Stat. 3981.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Housing Act of 1949, referred to in par. (1), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A (§1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Consolidated Farmers Home Administration Act of 1961, referred to in par. (2), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, which was redesignated the Consolidated Farm and Rural Development Act by Pub. L. 92-419, §101, Aug. 30, 1972, 86 Stat. 657, and is classified principally to chapter 50 (§1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Rural Development Act of 1972, referred to in par. (2), is Pub. L. 92-419, Aug. 30, 1972, 86 Stat. 657. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1921 of Title 7.

##### AMENDMENTS

1990—Pub. L. 101-624 substituted “Department of Agriculture; Rural Development Administration programs” for “Department of Agriculture and Farmers Home Administration programs” in section catchline and inserted “, or of the Rural Development Administration” after “of the Farmers Home Administration” in text.

#### § 9818. Coordination and eligibility

(a) The Secretary shall take all necessary and appropriate steps to encourage Federal departments and agencies and State and local governments to make grants, provide technical assistance, enter into contracts, and generally support and cooperate with community development corporations and local cooperative associations.

(b) Eligibility for assistance under other Federal programs shall not be denied to any applicant on the ground that it is a community development corporation or any other entity assisted under this subchapter.

(Pub. L. 97-35, title VI, §629, Aug. 13, 1981, 95 Stat. 497.)

#### § 9819. Evaluation of programs; implementation and funding, etc.; research and demonstration projects; implementation and purposes

(a) Each program for which grants are made under this subchapter shall provide for a thor-

ough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Secretary in consultation with existing grantees familiar with programs carried out under the Community Services Block Grant Act [42 U.S.C. 9901 et seq.] may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. In evaluating the performance of any community development corporation funded under part A, the criteria for evaluation shall be based upon such program objectives, goals, and priorities as are consistent with the purposes of this subchapter and were set forth by such community development corporation in its proposal for funding as approved and agreed upon by or as subsequently modified from time to time by mutual agreement between the Secretary and such community development corporation.

(b) The Secretary shall conduct, either directly or through grants or other arrangements, research and demonstration projects designed to suggest new programs and policies to achieve the purposes of this subchapter in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents.

(Pub. L. 97-35, title VI, § 630, Aug. 13, 1981, 95 Stat. 497.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Community Services Block Grant Act, referred to in subsec. (a), is subtitle B (§ 671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§ 9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

#### § 9820. Grants to plan economic development and cooperative programs

In order to facilitate the purposes of this subchapter, the Secretary is authorized to provide financial assistance to any public or private nonprofit agency or organization for planning of community economic development programs and cooperative programs under this subchapter.

(Pub. L. 97-35, title VI, § 631, Aug. 13, 1981, 95 Stat. 498.)

#### § 9821. Nondiscrimination provisions

(a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Sec-

retary shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(Pub. L. 97-35, title VI, § 632, Aug. 13, 1981, 95 Stat. 498.)

#### § 9822. Availability of certain appropriated funds

Funds appropriated to the Rural Development Loan Fund under title VII of the Economic Opportunity Act of 1964 [42 U.S.C. 2981 et seq.] (as in effect on August 12, 1981), and interest accumulated in such fund, shall be deposited in the Rural Development Loan Fund established under section 9812(c)(1) of this title and shall continue to be available to carry out the purposes of such fund. Funds appropriated to the Community Development Credit Union Revolving Loan Fund under title VII of the Economic Opportunity Act of 1964 (as in effect on August 12, 1981), and interest accumulated in such fund, shall continue to be available to carry out the purposes of such fund.

(Pub. L. 97-35, title VI, § 633, Aug. 13, 1981, 95 Stat. 498.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Title VII of the Economic Opportunity Act of 1964 was classified generally to subchapter VII (§ 2981 et seq.) of chapter 34 of this title, prior to repeal by Pub. L. 97-35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

“August 12, 1981” substituted in text for “the day before the date of the enactment of this Act”.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND

Pub. L. 99-609, Nov. 6, 1986, 100 Stat. 3475, provided that:

##### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Community Development Credit Union Revolving Loan Fund Transfer Act’.

##### “SEC. 2. TRANSFER OF COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.

“(a) ADMINISTRATION OF FUND BY NCUA.—

“(1) IN GENERAL.—Beginning on the date of the enactment of this Act [Nov. 6, 1986], the National Credit Union Administration Board shall administer the Community Development Credit Union Revolving Loan Fund.

“(2) TRANSFER OF AUTHORITY.—All authority to carry out the purposes of the Fund and to prescribe regulations in connection with the administration of the Fund which, on the day before the date of the enactment of this Act, was vested in the Secretary of Health and Human Services shall vest on such date in

the Board. Except as provided in subsection (c), the Secretary shall have no further responsibility with respect to the Fund.

“(b) CONTINUED AVAILABILITY OF APPROPRIATED FUNDS.—All funds appropriated to the Fund and interest accumulated in the Fund which continue to be available under section 633 of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. 9822] shall continue to be available to the Board to carry out the purposes of the Fund.

“(c) TRANSFER OF ASSETS; ETC.—The Secretary shall transfer to the National Credit Union Administration all assets, liabilities, grants, contracts, property, records, and funds held, used, arising from, or available to the Secretary in connection with the administration of the Fund before the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 6, 1986].

“(d) SAVINGS PROVISIONS.—

“(1) REGULATIONS.—Any regulations prescribed by the Secretary in connection with the administration of the Fund shall continue in effect until superseded by regulations prescribed by the Board.

“(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the enactment of this Act [Nov. 6, 1986].

“(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the administration of the Fund shall abate by reason of the enactment of this Act, except that the Board shall be substituted for the Secretary as a party to any such action or proceeding.

“(e) DEFINITIONS.—For purposes of this section—

“(1) BOARD.—The term ‘Board’ means the National Credit Union Administration Board.

“(2) FUND.—The term ‘Fund’ means the Community Development Credit Union Revolving Loan Fund established under title VII of the Economic Opportunity Act of 1964 [see References in Text note above] (as in effect before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981 [Aug. 13, 1981]).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.”

## SUBCHAPTER II—HEAD START PROGRAMS

### Editorial Notes

#### CODIFICATION

Subchapter is based on subchapter B of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, as amended.

### § 9831. Statement of purpose

It is the purpose of this subchapter to promote the school readiness of low-income children by enhancing their cognitive, social, and emotional development—

(1) in a learning environment that supports children's growth in language, literacy, mathematics, science, social and emotional functioning, creative arts, physical skills, and approaches to learning; and

(2) through the provision to low-income children and their families of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.

(Pub. L. 97-35, title VI, § 636, Aug. 13, 1981, 95 Stat. 499; Pub. L. 101-501, title I, § 102, Nov. 3,

1990, 104 Stat. 1224; Pub. L. 105-285, title I, § 102, Oct. 27, 1998, 112 Stat. 2703; Pub. L. 110-134, § 2, Dec. 12, 2007, 121 Stat. 1363.)

### Editorial Notes

#### AMENDMENTS

2007—Pub. L. 110-134 amended section generally. Prior to amendment, text read as follows: “It is the purpose of this subchapter to promote school readiness by enhancing the social and cognitive development of low-income children through the provision, to low-income children and their families, of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.”

1998—Pub. L. 105-285 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) In recognition of the role which Project Head Start has played in the effective delivery of comprehensive health, educational, nutritional, social, and other services to economically disadvantaged children and their families, it is the purpose of this subchapter to extend the authority for the appropriation of funds for such program.

“(b) In carrying out the provisions of this subchapter, the Secretary of Health and Human Services shall continue the administrative arrangement responsible for meeting the needs of migrant, non-English language background, and Indian children and shall assure that appropriate funding is provided to meet such needs.”

1990—Subsec. (b). Pub. L. 101-501 inserted “, non-English language background,” after “migrant”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### SHORT TITLE

For short title of this subchapter as the “Head Start Act”, see section 635 of Pub. L. 97-35, set out as a note under section 9801 of this title.

#### PRESCHOOL DEVELOPMENT GRANTS

Pub. L. 114-95, title IX, § 9212, Dec. 10, 2015, 129 Stat. 2152, provided that:

“(a) PURPOSES.—The purposes of this section are—

“(1) to assist States to develop, update, or implement a strategic plan that facilitates collaboration and coordination among existing programs of early childhood care and education in a mixed delivery system across the State designed to prepare low-income and disadvantaged children to enter kindergarten and to improve transitions from such system into the local educational agency or elementary school that enrolls such children, by—

“(A) more efficiently using existing Federal, State, local, and non-governmental resources to align and strengthen the delivery of existing programs;

“(B) coordinating the delivery models and funding streams existing in the State's mixed delivery system; and

“(C) developing recommendations to better use existing resources in order to improve—

“(i) the overall participation of children in a mixed delivery system of Federal, State, and local early childhood education programs;

“(ii) program quality while maintaining availability of services;

“(iii) parental choice among existing programs; and

“(iv) school readiness for children from low-income and disadvantaged families, including dur-

ing such children's transition into elementary school;

“(2) to encourage partnerships among Head Start providers, State and local governments, Indian tribes and tribal organizations, private entities (including faith- and community-based entities), and local educational agencies, to improve coordination, program quality, and delivery of services; and

“(3) to maximize parental choice among a mixed delivery system of early childhood education program providers.

“(b) DEFINITIONS.—In this section:

“(1) ESEA DEFINITIONS.—The terms ‘elementary school’, ‘local educational agency’, and ‘State’ have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

“(2) CENTER OF EXCELLENCE IN EARLY CHILDHOOD.—The term ‘Center of Excellence in Early Childhood’ means a Center of Excellence in Early Childhood designated under section 657B(b) of the Head Start Act (42 U.S.C. 9852b(b)).

“(3) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ‘early childhood education program’ has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

“(4) EXISTING PROGRAM.—The term ‘existing program’ means a Federal, State, local, or privately-funded early childhood education program that—

“(A) was operating in the State on the day before the date of enactment of this Act [Dec. 10, 2015]; or

“(B) began operating in the State at any time on or after the date of enactment of this Act through funds that were not provided by a grant under this section.

“(5) MIXED DELIVERY SYSTEM.—The term ‘mixed delivery system’ means a system—

“(A) of early childhood education services that are delivered through a combination of programs, providers, and settings (such as Head Start, licensed family and center-based child care programs, public schools, and community-based organizations); and

“(B) that is supported with a combination of public funds and private funds.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(7) STATE ADVISORY COUNCIL.—The term ‘State Advisory Council’ means a State Advisory Council on Early Childhood Education and Care designated or established under section 642B(b)(1)(A) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)).

“(c) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—From amounts made available under subsection (k), the Secretary, jointly with the Secretary of Education, shall award grants to States to enable the States to carry out the activities described in subsection (f).

“(2) AWARD BASIS.—Grants under this subsection shall be awarded—

“(A) on a competitive basis; and

“(B) with priority for States that meet the requirements of subsection (e)(3).

“(3) DURATION OF GRANTS.—A grant awarded under paragraph (1) shall be for a period of not more than 1 year and may be renewed by the Secretary, jointly with the Secretary of Education, under subsection (g).

“(4) MATCHING REQUIREMENT.—Each State that receives a grant under this section shall provide funds from non-Federal sources (which may be provided in cash or in kind) to carry out the activities supported by the grant, in an amount equal to not less than 30 percent of the amount of such grant.

“(d) INITIAL APPLICATION.—A State desiring a grant under subsection (c)(1) shall submit an application at such time and in such manner as the Secretary may reasonably require. The application shall contain—

“(1) an identification of the State entity that the Governor of the State has appointed to be responsible for duties under this section;

“(2) a description of how such State entity proposes to accomplish the activities described in subsection (f) and meet the purposes of this section described in subsection (a), including—

“(A) a timeline for strategic planning activities; and

“(B) a description of how the strategic planning activities and the proposed activities described in subsection (f) will increase participation of children from low-income and disadvantaged families in high-quality early childhood education and preschool programs as a result of the grant;

“(3) a description of the Federal, State, and local existing programs in the State for which such State entity proposes to facilitate activities described in subsection (f), including—

“(A) programs carried out under the Head Start Act (42 U.S.C. 9801 et seq.) [42 U.S.C. 9831 et seq.], including the Early Head Start programs carried out under such Act;

“(B) child care programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) [42 U.S.C. 9857 et seq.] or section 418 of the Social Security Act (42 U.S.C. 618); and

“(C) other Federal, State, and local programs of early learning and development, early childhood education, and child care, operating in the State (including programs operated by Indian tribes and tribal organizations and private entities, including faith- and community-based entities), as of the date of the application for the grant;

“(4) a description of how the State entity, in collaboration with Centers of Excellence in Early Childhood, if appropriate, will provide technical assistance and disseminate best practices;

“(5) a description of how the State plans to sustain the activities described in, and carried out in accordance with, subsection (f) with non-Federal sources after grant funds under this section are no longer available, if the State plans to continue such activities after such time; and

“(6) a description of how the State entity will work with the State Advisory Council and Head Start collaboration offices.

“(e) REVIEW PROCESS.—The Secretary shall review the applications submitted under subsection (d) to—

“(1) determine which applications satisfy the requirements of such subsection;

“(2) confirm that each State submitting an application has, as of the date of the application, a mixed delivery system in place; and

“(3) determine if a priority is merited in accordance with subsection (c)(2)(B) because the State has never received—

“(A) a grant under subsection (c); or

“(B) a preschool development grant for development or expansion under such program as it existed on the day before the date of enactment of this Act.

“(f) USE OF FUNDS.—A State, acting through the State entity appointed under subsection (d)(1), that receives a grant under subsection (c)(1) shall use the grant funds for all of the following activities:

“(1) Conducting a periodic statewide needs assessment of—

“(A) the availability and quality of existing programs in the State, including such programs serving the most vulnerable or underserved populations and children in rural areas;

“(B) to the extent practicable, the unduplicated number of children being served in existing programs; and

“(C) to the extent practicable, the unduplicated number of children awaiting service in such programs.

“(2) Developing a strategic plan that recommends collaboration, coordination, and quality improvement activities (including activities to improve children's transition from early childhood education programs into elementary schools) among existing pro-

grams in the State and local educational agencies. Such plan shall include information that—

“(A) identifies opportunities for, and barriers to, collaboration and coordination among existing programs in the State, including among State, local, and tribal (if applicable) agencies responsible for administering such programs;

“(B) recommends partnership opportunities among Head Start providers, local educational agencies, State and local governments, Indian tribes and tribal organizations, and private entities (including faith- and community-based entities) that would improve coordination, program quality, and delivery of services;

“(C) builds on existing plans and goals with respect to early childhood education programs, including improving coordination and collaboration among such programs, of the State Advisory Council while incorporating new or updated Federal, State, and local statutory requirements, including—

“(i) the requirements of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) [42 U.S.C. 9857 et seq.]; and

“(ii) when appropriate, information found in the report required under section 13 of the Child Care and Development Block Grant Act of 2014 (Public Law 113-186; 128 Stat. 2002); and

“(D) describes how accomplishing the activities described in subparagraphs (A) through (C) will better serve children and families in existing programs and how such activities will increase the overall participation of children in the State.

“(3) Maximizing parental choice and knowledge about the State’s mixed delivery system of existing programs and providers by—

“(A) ensuring that parents are provided information about the variety of early childhood education programs for children from birth to kindergarten entry in the State’s mixed delivery system; and

“(B) promoting and increasing involvement by parents and family members, including families of low-income and disadvantaged children, in the development of their children and the transition of such children from an early childhood education program into an elementary school.

“(4) Sharing best practices among early childhood education program providers in the State to increase collaboration and efficiency of services, including to improve transitions from such programs to elementary school.

“(5) After activities described in paragraphs (1) and (2) have been completed, improving the overall quality of early childhood education programs in the State, including by developing and implementing evidence-based practices that meet the requirements of section 8101(21)(A)(i) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801(21)(A)(i)], to improve professional development for early childhood education providers and educational opportunities for children.

“(g) RENEWAL GRANTS.—

“(1) IN GENERAL.—The Secretary, jointly with the Secretary of Education, may use funds available under subsection (k) to award renewal grants to States described in paragraph (2) to enable such States to continue activities described in subsection (f) and to carry out additional activities described in paragraph (6).

“(2) ELIGIBLE STATES.—A State shall be eligible for a grant under paragraph (1) if—

“(A) the State has received a grant under subsection (c)(1) and the grant period has concluded; or

“(B)(i) the State has received a preschool development grant for development or expansion under such program as it existed on the day before the date of enactment of this Act, and the grant period for such grant has concluded; and

“(ii) the Secretary allows such State to apply directly for a renewal grant under this subsection,

rather than an initial grant under subsection (c)(1), and the State submits with its application the needs assessment completed under the preschool development grant (updated as necessary to reflect the needs of the State as of the time of the application) in place of the activity described in subsection (f)(1).

“(3) DURATION OF GRANTS.—A grant awarded under this subsection shall be for a period of not more than 3 years and shall not be renewed.

“(4) MATCHING REQUIREMENT.—Each State that receives a grant under this subsection shall provide funds from non-Federal sources (which may be provided in cash or in kind) to carry out the activities supported by the grant, in an amount equal to not less than 30 percent of the amount of the grant.

“(5) APPLICATION.—A State described in paragraph (2) that desires a grant under this subsection shall submit an application for renewal at such time and in such manner as the Secretary may reasonably require. The application shall contain—

“(A) applicable information required in the application described in subsection (d), and in the case of a State described in paragraph (2)(A), updated as the State determines necessary;

“(B) in the case of a State described in paragraph (2)(A), a description of how funds were used for the activities described in subsection (f) in the initial grant period and the extent to which such activities will continue to be supported in the renewal period;

“(C) in the case of a State described in paragraph (2)(B), how a needs assessment completed prior to the date of the application, such as the needs assessment completed under the preschool development grant program (as such program existed prior to the date of enactment of this Act), and updated as necessary in accordance with paragraph (2)(B)(ii), will be sufficient information to inform the use of funds under this subsection, and a copy of such needs assessment;

“(D) a description of how funds will be used for the activities described in paragraph (6) during the renewal grant period, if the State proposes to use grant funds for such activities; and

“(E) in the case of a State that proposes to carry out activities described in paragraph (6) and to continue such activities after grant funds under this subsection are no longer available, a description of how such activities will be sustained with non-Federal sources after such time.

“(6) ADDITIONAL ACTIVITIES.—

“(A) IN GENERAL.—Each State that receives a grant under this subsection may use grant funds to award subgrants to programs in a mixed delivery system across the State designed to benefit low-income and disadvantaged children prior to entering kindergarten, to—

“(i)(I) enable programs to implement activities addressing areas in need of improvement as determined by the State, through the use of funds for the activities described in paragraph (5)(C) or subsection (f), as applicable; and

“(II) as determined through the activities described in paragraph (5)(C) or subsection (f), as applicable, expand access to such existing programs; or

“(ii) develop new programs to address the needs of children and families eligible for, but not served by, such programs, if the State ensures that—

“(I) the distribution of subgrants under this subparagraph supports a mixed delivery system; and

“(II) funds made available under this subparagraph will be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this section.

“(B) PRIORITY.—In awarding subgrants under subparagraph (A), a State shall prioritize activities to

improve areas in which there are State-identified needs that would improve services for low-income and disadvantaged children living in rural areas.

“(C) SPECIAL RULE.—A State receiving a renewal grant under this subsection that elects to award subgrants under subparagraph (A) shall not—

“(i) for the first year of the renewal grant, use more than 60 percent of the grant funds available for such year to award such subgrants; and

“(ii) for each of the second and third years of the renewal grant, use more than 75 percent of the grant funds available for such year to award such subgrants.

“(h) STATE REPORTING.—

“(1) INITIAL GRANTS.—A State that receives an initial grant under subsection (c)(1) shall submit a final report to the Secretary not later than 6 months after the end of the grant period. The report shall include a description of—

“(A) how, and to what extent, the grant funds were utilized for activities described in subsection (f), and any other activities through which funds were used to meet the purposes of this section, as described in subsection (a);

“(B) strategies undertaken at the State level and, if applicable, local or program level, to implement recommendations in the strategic plan developed under subsection (f)(2);

“(C)(i) any new partnerships among Head Start providers, State and local governments, Indian tribes and tribal organizations, and private entities (including faith- and community-based entities); and

“(ii) how these partnerships improve coordination and delivery of services;

“(D) if applicable, the degree to which the State used information from the report required under section 13 of the Child Care and Development Block Grant Act of 2014 to inform activities under this section, and how this information was useful in coordinating, and collaborating among, programs and funding sources;

“(E) the extent to which activities funded by the initial grant led to the blending or braiding of other public and private funding;

“(F) how information about available existing programs for children from birth to kindergarten entry was disseminated to parents and families, and how involvement by parents and family was improved; and

“(G) other State-determined and voluntarily provided information to share best practices regarding early childhood education programs and the coordination of such programs.

“(2) RENEWAL GRANTS.—A State receiving a renewal grant under subsection (g) shall submit a follow-up report to the Secretary not later than 6 months after the end of the grant period that includes—

“(A) information described in subparagraphs (A) through (G) of paragraph (1), as applicable and updated for the period covered by the renewal grant; and

“(B) if applicable, information on how the State was better able to serve children through the distribution of funds in accordance with subsection (g)(5), through—

“(i) a description of the activities conducted through the use of subgrant funds, including, where appropriate, measurable areas of program improvement and better use of existing resources; and

“(ii) best practices from the use of subgrant funds, including how to better serve the most vulnerable, underserved, and rural populations.

“(i) RULES OF CONSTRUCTION.—

“(1) LIMITATIONS ON FEDERAL INTERFERENCE.—Nothing in this section shall be construed to authorize the Secretary or the Secretary of Education to establish any criterion for grants made under this section that specifies, defines, or prescribes—

“(A) early learning and development guidelines, standards, or specific assessments, including the standards or measures that States use to develop, implement, or improve such guidelines, standards, or assessments;

“(B) specific measures or indicators of quality early learning and care, including—

“(i) the systems that States use to assess the quality of early childhood education programs and providers, school readiness, and achievement; and

“(ii) the term ‘high-quality’ as it relates to early learning, development, or care;

“(C) early learning or preschool curriculum, programs of instruction, or instructional content;

“(D) teacher and staff qualifications and salaries;

“(E) class sizes and ratios of children to instructional staff;

“(F) any new requirement that an early childhood education program is required to meet that is not explicitly authorized in this section;

“(G) the scope of programs, including length of program day and length of program year; and

“(H) any aspect or parameter of a teacher, principal, other school leader, or staff evaluation system within a State, local educational agency, or early childhood education program.

“(2) LIMITATION ON GOVERNMENTAL REQUIREMENTS.—Nothing in this section shall be construed to authorize the Secretary, Secretary of Education, the State, or any other governmental agency to alter requirements for existing programs for which coordination and alignment activities are recommended under this section, or to force programs to adhere to any recommendations developed through this program. The Secretary, Secretary of Education, State, or other governmental agency may only take an action described in the preceding sentence as otherwise authorized under Federal, State, or local law.

“(3) SECRETARY OF EDUCATION.—Nothing in this section shall be construed to authorize the Secretary of Education to have sole decision-making or regulatory authority in carrying out the program authorized under this section.

“(j) PLANNING AND TRANSITION.—

“(1) IN GENERAL.—The recipient of an award for a preschool development grant for development or expansion under such program as it existed on the day before the date of enactment of this Act may continue to receive funds in accordance with the terms of such existing award.

“(2) TRANSITION.—The Secretary, jointly with the Secretary of Education, shall take such steps as are necessary to ensure an orderly transition to, and implementation of, the program under this section from the preschool development grants for development or expansion program as such program was operating prior to the date of enactment of this Act, in accordance with subsection (k).

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this section \$250,000,000 for each of fiscal years 2017 through 2020.”

#### REVIEW OF FEDERAL EARLY CHILDHOOD EDUCATION PROGRAMS

Pub. L. 114-95, title IX, §9213, Dec. 10, 2015, 129 Stat. 2160, provided that:

“(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the heads of all Federal agencies that administer Federal early childhood education programs, shall conduct an interdepartmental review of all early childhood education programs for children less than 6 years of age in order to—

“(1) develop a plan for the elimination of overlapping programs, as identified by the Government Accountability Office’s 2012 annual report (GAO-12-342SP);

“(2) determine if the activities conducted by States using grant funds from preschool development grants

under section 9212 [set out above] have led to better utilization of resources; and

“(3) make recommendations to Congress for streamlining all such programs.

“(b) REPORT AND UPDATES.—The Secretary of Health and Human Services, in consultation with the heads of all Federal agencies that administer Federal early childhood education programs, shall—

“(1) not later than 2 years after the date of enactment of this Act [Dec. 10, 2015], prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a detailed report that—

“(A) outlines the efficiencies that can be achieved by, and specific recommendations for, eliminating overlap and fragmentation among all Federal early childhood education programs;

“(B) explains how the use by States of preschool development grant funds under section 9212 has led to the better utilization of resources; and

“(C) builds upon the review of Federal early learning and care programs required under section 13 of the Child Care and Development Block Grant Act of 2014 (Public Law 113-186; 128 Stat. 2002); and

“(2) annually prepare and submit to such Committees a detailed update of the report described in paragraph (1).”

### § 9832. Definitions

For purposes of this subchapter:

(1) The term “child with a disability” means—

(A) a child with a disability, as defined in section 1401(3) of title 20; and

(B) an infant or toddler with a disability, as defined in section 1432(5) of title 20.

(2) The term “deficiency” means—

(A) a systemic or substantial material failure of an agency in an area of performance that the Secretary determines involves—

(i) a threat to the health, safety, or civil rights of children or staff;

(ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;

(iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;

(iv) the misuse of funds received under this subchapter;

(v) loss of legal status (as determined by the Secretary) or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or

(vi) failure to meet any other Federal or State requirement that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;

(B) systemic or material failure of the governing body of an agency to fully exercise its legal and fiduciary responsibilities; or

(C) an unresolved area of noncompliance.

(3) The term “delegate agency” means a public, private nonprofit (including a community-based organization, as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]), or for-profit

organization or agency to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

(4) The term “family literacy services” means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency, and financial literacy.<sup>1</sup>

(D) An age-appropriate education to prepare children for success in school and life experiences.

(5) The term “financial assistance” includes assistance provided by grant, agreement, or contract, and payments may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

(6) The term “full calendar year” means all days of the year other than Saturday, Sunday, and a legal public holiday.

(7) The term “full-working-day” means not less than 10 hours per day. Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law (including regulation) for the provision of services to such a child.

(8) The term “Head Start classroom” means a group of children supervised and taught by two paid staff members (a teacher and a teacher’s aide or two teachers) and, where possible, a volunteer.

(9) The term “Head Start family day care” means Head Start services provided in a private residence other than the residence of the child receiving such services.

(10) The term “home-based Head Start program” means a Head Start program that provides Head Start services in the private residence of the child receiving such services.

(11) The term “homeless children” has the meaning given the term “homeless children and youths” in section 11434a(2) of this title.

(12) The term “Indian tribe” means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term “institution of higher education” has the meaning given the term in section 1001(a) of title 20.

<sup>1</sup> So in original.

(14) The term “interrater reliability” means the extent to which 2 or more independent raters or observers consistently obtain the same result when using the same assessment tool.

(15) The term “limited English proficient”, used with respect to a child, means a child—

(A)(i) who was not born in the United States or whose native language is a language other than English;

(ii)(I) who is a Native American (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]), an Alaska Native, or a native resident of an outlying area (as defined in such section 8101); and

(II) who comes from an environment where a language other than English has had a significant impact on the child’s level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(B) whose difficulties in speaking or understanding the English language may be sufficient to deny such child—

(i) the ability to successfully achieve in a classroom in which the language of instruction is English; or

(ii) the opportunity to participate fully in society.

(16) The term “local educational agency” has the meaning given such term in the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(17) The term “migrant or seasonal Head Start program” means—

(A) with respect to services for migrant farmworkers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and

(B) with respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.

(18) The term “mobile Head Start program” means the provision of Head Start services utilizing transportable equipment set up in various community-based locations on a routine, weekly schedule, operating in conjunction with home-based Head Start programs, or as a Head Start classroom.

(19) The term “poverty line” means the official poverty line (as defined by the Office of Management and Budget)—

(A) adjusted to reflect the percentage change in the Consumer Price Index For<sup>2</sup> All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; and

(B) adjusted for family size.

(20) The term “principles of scientific research” means principles of research that—

(A) applies rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

(B) presents findings and makes claims that are appropriate to and supported by methods that have been employed; and

(C) includes, as appropriate to the research being conducted—

(i) use of systematic, empirical methods that draw on observation or experiment;

(ii) use of data analyses that are adequate to support the general findings;

(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random assignment experiments;

(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

(21) The term “professional development” means high-quality activities that will improve the knowledge and skills of Head Start teachers and staff, as relevant to their roles and functions, in program administration and the provision of services and instruction, as appropriate, in a manner that improves service delivery to enrolled children and their families, including activities that—

(A) are part of a sustained effort to improve overall program quality and outcomes for enrolled children and their families;

(B) are developed or selected with extensive participation of administrators and teachers from Head Start programs;

(C) are developmentally appropriate for the children being served;

(D) include instruction in ways that Head Start teachers and staff may work more effectively with parents, as appropriate;

(E) are designed to give Head Start teachers and staff the knowledge and skills to provide instruction and appropriate support services to children of diverse backgrounds, as appropriate;

(F) may include a 1-day or short-term workshop or conference, if the workshop or conference is consistent with the goals in the professional development plan described in section 9843a(f) of this title and will be delivered by an institution of higher education or other entity, with expertise in delivering training in early childhood development, training in family support, and other assistance designed to improve the delivery of Head Start services; and

<sup>2</sup> So in original. Probably should not be capitalized.

(G) in the case of teachers, assist teachers with—

(i) the acquisition of the content knowledge and teaching strategies needed to provide effective instruction and other school readiness services regarding early language and literacy, early mathematics, early science, cognitive skills, approaches to learning, creative arts, physical health and development, and social and emotional development linked to school readiness;

(ii) meeting the requirements in paragraphs (1) and (2) of section 9843a(a) of this title, as appropriate;

(iii) improving classroom management skills, as appropriate;

(iv) advancing their understanding of effective instructional strategies that are—

(I) based on scientifically valid research; and

(II) aligned with—

(aa) the Head Start Child Outcomes Framework developed by the Secretary and, as appropriate, State early learning standards; and

(bb) curricula, ongoing assessments, and other instruction and services, designed to help meet the standards described in section 9836a(a)(1) of this title;

(v) acquiring the knowledge and skills to provide instruction and appropriate language and support services to increase the English language skills of limited English proficient children, as appropriate; or

(vi) methods of teaching children with disabilities, as appropriate.

(22) The term “scientifically based reading research”—

(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) shall include research that—

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(23) The term “scientifically valid research” includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

(24) The term “Secretary” means the Secretary of Health and Human Services.

(25) The term “State” means a State, the Commonwealth of Puerto Rico, the District of

Columbia, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. The term includes the Republic of Palau for fiscal years 2008 and 2009, and (if the legislation described in section 9835(a)(2)(B)(v) of this title has not been enacted by September 30, 2009) for fiscal years 2010 through 2012.

(26) The term “unresolved area of non-compliance” means failure to correct a non-compliance item within 120 days, or within such additional time (if any) as is authorized by the Secretary, after receiving from the Secretary notice of such noncompliance item, pursuant to section 9836a(c) of this title.

(Pub. L. 97-35, title VI, § 637, Aug. 13, 1981, 95 Stat. 499; Pub. L. 98-558, title I, § 101, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 101-501, title I, §§ 104(b), 116(b), 117(b), 121(b), 123(a), Nov. 3, 1990, 104 Stat. 1228, 1232, 1233, 1237; Pub. L. 103-252, title I, § 102, May 18, 1994, 108 Stat. 624; Pub. L. 105-285, title I, § 103, Oct. 27, 1998, 112 Stat. 2703; Pub. L. 110-134, § 3, Dec. 12, 2007, 121 Stat. 1364; Pub. L. 114-95, title IX, § 9215(nn)(1), Dec. 10, 2015, 129 Stat. 2176.)

### Editorial Notes

#### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (12), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in par. (16), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§ 6301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

#### AMENDMENTS

2015—Par. (3). Pub. L. 114-95, § 9215(nn)(1)(A), substituted “section 8101 of the Elementary and Secondary Education Act of 1965” for “section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)”.

Par. (15)(A)(ii)(I). Pub. L. 114-95, § 9215(nn)(1)(B), substituted “(as defined in section 8101 of the Elementary and Secondary Education Act of 1965), an Alaska Native, or a native resident of an outlying area (as defined in such section 8101);” for “(as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), an Alaska Native, or a native resident of an outlying area (as defined in such section 9101);”.

2007—Pub. L. 110-134, § 3(b)(2), rearranged pars. into numerical order.

Pub. L. 110-134, § 3(b)(1), which directed amendment of this section by redesignating pars. (1) to (23) as (1), (3), (4), (5), (6), (7), (8), (9), (10), (12), (16), (17), (18), (19), (22), (24), (25), (2), (11), (13), (14), (15), (20), (21), (23), and (26), respectively, was executed by redesignating pars. (1) to (26) as (1), (3), (4), (5), (6), (7), (8), (9), (10), (12), (16), (17), (18), (19), (22), (24), (25), (2), (11), (13), (14), (15), (20), (21), (23), and (26), respectively, to reflect the probable intent of Congress.

Par. (2). Pub. L. 110-134, § 3(a)(1), inserted “(including a community-based organization, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801))” after “nonprofit”.

Par. (3)(C). Pub. L. 110-134, § 3(a)(2), inserted “, and financial literacy,” after “self-sufficiency”.

Par. (12). Pub. L. 110-134, § 3(a)(3), substituted “migrant or seasonal Head Start program” for “migrant and seasonal Head Start program”.

Par. (17). Pub. L. 110-134, §3(a)(4), added par. (17) and struck out former par. (17) which read as follows: “The term ‘State’ means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending before October 1, 2001 (and fiscal year 2002, if the legislation described in section 9835(a)(2)(B)(iii) of this title has not been enacted before September 30, 2001), also means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.”

Pars. (18) to (26). Pub. L. 110-134, §3(a)(5), added pars. (18) to (26).

1998—Pars. (1), (2). Pub. L. 105-285, §103(2), added pars. (1) and (2). Former pars. (1) and (2) redesignated (16) and (17), respectively.

Pars. (3), (4). Pub. L. 105-285, §103(3)–(5), added par. (3), redesignated former par. (3) as (4), and struck out former par. (4) which read as follows: “The term ‘family literacy services’ means services and activities that include interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training (including training in English as a second language), and early childhood education.”

Par. (6). Pub. L. 105-285, §103(6), inserted at end “Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law (including regulation) for the provision of services to such a child.”

Par. (12). Pub. L. 105-285, §103(7), added par. (12) and struck out former par. (12) which read as follows: “The term ‘migrant Head Start program’ means a Head Start program that serves families who are engaged in agricultural work and who have changed their residence from one geographical location to another in the preceding 2-year period.”

Par. (15). Pub. L. 105-285, §103(8), added par. (15).

Par. (16). Pub. L. 105-285, §103(1), redesignated par. (1) as (16) and transferred it to appear after par. (15).

Par. (17). Pub. L. 105-285, §103(9)(B), (C), substituted “Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending before October 1, 2001 (and fiscal year 2002, if the legislation described in section 9835(a)(2)(B)(iii) of this title has not been enacted before September 30, 2001), also means” for “Virgin Islands,” and “and the Republic of Palau” for “Palau, and the Commonwealth of the Northern Mariana Islands”.

Pub. L. 105-285, §103(9)(A), which directed substitution of “term” for “Term”, could not be executed because “Term” does not appear in par. (17).

Pub. L. 105-285, §103(1), redesignated par. (2) as (17) and transferred it to appear after par. (16).

1994—Par. (4). Pub. L. 103-252, §102(1), (4), (5)(A), redesignated par. (12) as (4) and struck out former par. (4) which defined “adjusted appropriation”.

Par. (5). Pub. L. 103-252, §102(1), (4), (5)(B), redesignated par. (10) as (5) and struck out former par. (5) which defined “quality improvement funds”.

Par. (6). Pub. L. 103-252, §102(4), (5)(B), redesignated par. (11) as (6). Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 103-252, §102(4), redesignated pars. (6) and (7) as (7) and (8), respectively. Former par. (8) redesignated (9).

Par. (9). Pub. L. 103-252, §102(4), redesignated par. (8) as (9). Former par. (9) redesignated (14).

Pub. L. 103-252, §102(2), added par. (9) and struck out former par. (9) which defined “poverty line”.

Par. (10). Pub. L. 103-252, §102(4), (5)(C), redesignated par. (13) as (10). Former par. (10) redesignated (5).

Par. (11). Pub. L. 103-252, §102(5)(D), added par. (11). Former par. (11) redesignated (6).

Par. (12). Pub. L. 103-252, §102(5)(D), added par. (12). Former par. (12) redesignated (4).

Pub. L. 103-252, §102(3), (4), added par. (12) and redesignated it as (4).

Par. (13). Pub. L. 103-252, §102(5)(D), added par. (13). Former par. (13) redesignated (10).

Pub. L. 103-252, §102(3), (4), added par. (13) and redesignated it as (10).

Par. (14). Pub. L. 103-252, §102(4), redesignated par. (9) as (14).

1990—Par. (2). Pub. L. 101-501, §104(b)(1), substituted “the Federated States of Micronesia, the Republic of the Marshall Islands, Palau” for “the Trust Territory of the Pacific Islands”.

Pars. (4), (5). Pub. L. 101-501, §104(b)(2), added pars. (4) and (5).

Par. (6). Pub. L. 101-501, §116(b), added par. (6).

Pars. (7), (8). Pub. L. 101-501, §117(b), added pars. (7) and (8).

Par. (9). Pub. L. 101-501, §121(b), added par. (9).

Pars. (10), (11). Pub. L. 101-501, §123(a), added pars. (10) and (11).

1984—Par. (2). Pub. L. 98-558 inserted “the Commonwealth of” before “the Northern Mariana Islands”.

### Statutory Notes and Related Subsidiaries

#### 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 Title 20, Education.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-252, title I, §127, May 18, 1994, 108 Stat. 651, provided that:

“(a) EFFECTIVE DATE.—This title [see Short Title of 1994 Amendment note set out under section 9801 of this title], and the amendments made by this title, shall take effect on the date of enactment of this title [May 18, 1994].

“(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act [42 U.S.C. 9831 et seq.] until October 1, 1994.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

### § 9833. Financial assistance for Head Start programs

The Secretary may, upon application by an agency which is eligible for designation as a Head Start agency pursuant to section 9836 of this title, provide financial assistance to such agency for a period of 5 years for the planning, conduct, administration, and evaluation of a Head Start program focused primarily upon children from low-income families who have not reached the age of compulsory school attendance which (1) will provide such comprehensive health, education, parental involvement, nutritional, social, and other services as will enable the children to attain their full potential and attain school readiness; and (2) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level.

(Pub. L. 97-35, title VI, §638, Aug. 13, 1981, 95 Stat. 499; Pub. L. 100-297, title II, §2504, Apr. 28, 1988, 102 Stat. 330; Pub. L. 103-252, title I, §§103, 112(c), May 18, 1994, 108 Stat. 625, 641; Pub. L. 105-285, title I, §104, Oct. 27, 1998, 112 Stat. 2705; Pub. L. 110-134, §4, Dec. 12, 2007, 121 Stat. 1367.)

**Editorial Notes****AMENDMENTS**

2007—Pub. L. 110-134 inserted “for a period of 5 years” after “provide financial assistance to such agency”.

1998—Cl. (1). Pub. L. 105-285 substituted “enable the children” for “aid the children” and inserted “and attain school readiness” before the semicolon.

1994—Pub. L. 103-252 struck out subsec. (a) designation, in cl. (1), substituted “health, education, parental involvement, nutritional, social, and other services” for “health, nutritional, educational, social, and other services”, and struck out subsec. (b) which read as follows: “For purposes of providing financial assistance under subsection (a) of this section to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter V of this chapter.”

1988—Pub. L. 100-297 designated existing provisions as subsec. (a) and added subsec. (b).

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

For effective date and applicability of amendment by Pub. L. 100-297, see section 6303 of Pub. L. 100-297, set out as a note under section 1071 of Title 20, Education.

**§ 9834. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter (other than section 9852b of this title) \$7,350,000,000 for fiscal year 2008, \$7,650,000,000 for fiscal year 2009, \$7,995,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 and 2012.

(Pub. L. 97-35, title VI, § 639, Aug. 13, 1981, 95 Stat. 499; Pub. L. 98-558, title I, § 102, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99-425, title I, § 101, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-120, § 2, Oct. 23, 1989, 103 Stat. 700; Pub. L. 101-501, title I, §§ 103, 120(b), 140, Nov. 3, 1990, 104 Stat. 1224, 1236, 1242; Pub. L. 103-252, title I, § 104, May 18, 1994, 108 Stat. 625; Pub. L. 105-285, title I, § 105, Oct. 27, 1998, 112 Stat. 2705; Pub. L. 110-134, § 5, Dec. 12, 2007, 121 Stat. 1367.)

**Editorial Notes****AMENDMENTS**

2007—Pub. L. 110-134 amended section generally. Prior to amendment, section related to authorization of appropriations to carry out this subchapter for fiscal years 1999 through 2003 and availability of amount appropriated.

1998—Subsec. (a). Pub. L. 105-285, § 105(1), substituted “1999 through 2003” for “1995 through 1998”.

Subsec. (b)(1) to (3). Pub. L. 105-285, § 105(2), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

“(1) \$35,000,000 for each of the fiscal years 1995 through 1998 to—

“(A) carry out the Head Start Transition Project Act; and

“(B) carry out activities authorized under section 9837(d) of this title; and

“(2) not more than \$3,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal

years 1996 through 1998, to carry out longitudinal research under section 9844(e) of this title.”

1994—Subsec. (a). Pub. L. 103-252, § 104(1), substituted “such sums as may be necessary for fiscal years 1995 through 1998” for “(other than section 9846a of this title) \$1,552,000,000 for fiscal year 1990, \$2,386,000,000 for fiscal year 1991, \$4,273,000,000 for fiscal year 1992, \$5,924,000,000 for fiscal year 1993, and \$7,660,000,000 for fiscal year 1994”.

Subsecs. (b), (c). Pub. L. 103-252, § 104(2), added subsec. (b) and struck out former subsecs. (b) and (c) which read as follows:

“(b) There are authorized to be appropriated to carry out section 9846a of this title, such sums as may be necessary for fiscal years 1991 through 1996.

“(c)(1) If the amount appropriated under subsection (a) of this section for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall make available not less than \$20,000,000 to carry out the Head Start Transition Project Act.

“(2) The Secretary shall make available not less than \$20,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the Head Start Transition Project Act.”

1990—Pub. L. 101-501, § 140, added subsec. (c).

Pub. L. 101-501, § 120(b), designated existing provisions as subsec. (a), inserted “(other than section 9846a of this title)” after “of this subchapter”, and added subsec. (b).

Pub. L. 101-501, § 103, struck out “\$1,198,000,000 for fiscal year 1987, \$1,263,000,000 for fiscal year 1988, \$1,332,000,000 for fiscal year 1989, and” after “of this subchapter” and inserted “, \$2,386,000,000 for fiscal year 1991, \$4,273,000,000 for fiscal year 1992, \$5,924,000,000 for fiscal year 1993, and \$7,660,000,000 for fiscal year 1994” after “1990”.

1989—Pub. L. 101-120 substituted “\$1,552,000,000” for “\$1,405,000,000”.

1986—Pub. L. 99-425 amended section generally, substituting “\$1,198,000,000 for fiscal year 1987, \$1,263,000,000 for fiscal year 1988, \$1,332,000,000 for fiscal year 1989, and \$1,405,000,000 for fiscal year 1990” for “\$1,093,030,000 for fiscal year 1985, and \$1,221,000,000 for fiscal year 1986”.

1984—Pub. L. 98-558 substituted “\$1,093,030,000 for fiscal year 1985, and \$1,221,000,000 for fiscal year 1986” for “\$950,000,000 for fiscal year 1982, \$1,007,000,000 for fiscal year 1983, and \$1,058,357,000 for fiscal year 1984”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

**§ 9835. Allotment of funds****(a) Distribution of appropriations; priorities, etc.**

(1) Using the sums appropriated pursuant to section 9834 of this title for a fiscal year, the Secretary shall allocate such sums in accordance with paragraphs (2) through (5).

(2)(A) The Secretary shall determine an amount for each fiscal year for each State that is equal to the amount received through base grants for the prior fiscal year by the Head

Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii) of subparagraph (B).

(B) The Secretary shall reserve for each fiscal year such sums as are necessary—

(i) to provide each amount determined for a State under subparagraph (A) to the Head Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii), by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year;

(ii) to provide an amount for the Indian Head Start programs that is equal to the amount provided for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency (including each Early Head Start agency) administering an Indian Head Start program an amount equal to that agency's base grant for the prior fiscal year;

(iii) to provide an amount for the migrant and seasonal Head Start programs, on a nationwide basis, that is equal to the amount provided nationwide for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency administering a migrant or seasonal Head Start program an amount equal to that agency's base grant for the prior fiscal year;

(iv) to provide an amount for each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year;

(v) to provide an amount for the Republic of Palau (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) for each of fiscal years 2008 and 2009, and (if legislation approving a new agreement regarding United States assistance for the Republic of Palau has not been enacted by September 30, 2009) for each of fiscal years 2010 through 2012, that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year; and

(vi) to provide an amount for a collaboration grant under section 9837b(a) of this title for each State, for the Indian Head Start programs, and for the migrant and seasonal Head Start programs, in the same amount as the corresponding collaboration grant provided under this subchapter for fiscal year 2007.

(C)(i) The Secretary shall reserve for each fiscal year an amount that is not less than 2.5 percent and not more than 3 percent of the sums appropriated pursuant to section 9834 of this title for that fiscal year, to fund training and technical assistance activities, from which reserved amount—

(I) the Secretary shall set aside a portion, but not less than 20 percent, to be used to fund

training and technical assistance activities for Early Head Start programs, in accordance with section 9840a(g)(2) of this title; and

(II) the Secretary shall set aside a portion, equal to the rest of the reserved amount, to fund training and technical assistance activities for other Head Start programs, in accordance with section 9843 of this title, of which portion—

(aa) not less than 50 percent shall be made available to Head Start agencies to use directly, which may include at their discretion the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, to make program improvements identified by such agencies, by carrying out the training and technical assistance activities described in section 9843(d) of this title;

(bb) not less than 25 percent shall be available to the Secretary to support a State-based training and technical assistance system, or a national system, described in section 9843(e) of this title for supporting program quality; and

(cc) the remainder of the portion set aside under this subclause shall be available to the Secretary to assist Head Start agencies in meeting and exceeding the standards described in section 9836a(a)(1) of this title by carrying out activities described in subsections (a), (b), (c), (f), and (g) of section 9843 of this title, including helping Head Start programs address weaknesses identified by monitoring activities conducted by the Secretary under section 9836a(c) of this title, except that not less than \$3,000,000 of the remainder shall be made available to carry out activities described in section 9843(a)(3)(B)(ii) of this title.

(ii) In determining the portion set aside under clause (i)(I) and the amount reserved under this subparagraph, the Secretary shall consider the number of Early Head Start programs newly funded for that fiscal year.

(D) The Secretary shall reserve not more than \$20,000,000 to fund research, demonstration, and evaluation activities under section 9844 of this title, of which not more than \$7,000,000 for each of fiscal years 2008 through 2012 shall be available to carry out impact studies under section 9844(g) of this title.

(E) The Secretary shall reserve not more than \$42,000,000 for discretionary payments by the Secretary, including payments for all costs (other than compensation of Federal employees) for activities carried out under subsection (c) or (e) of section 9836a of this title.

(F) If the sums appropriated under section 9834 of this title are not sufficient to provide the amounts required to be reserved under subparagraphs (B) through (E), the amounts shall be reduced proportionately.

(G) Nothing in this section shall be construed to deny the Secretary the authority, consistent with sections 9836, 9836a, and 9841 of this title to terminate, suspend, or reduce funding to a Head Start agency.

(3)(A) From any amount remaining for a fiscal year after the Secretary carries out paragraph (2) (referred to in this paragraph as the "remaining amount"), the Secretary shall—

(i) subject to clause (ii)—

(I) provide a cost of living increase for each Head Start agency (including each Early Head Start agency) funded under this subchapter for that fiscal year, to maintain the level of services provided during the prior year; and

(II) subject to subparagraph (B), provide \$10,000,000 for Indian Head Start programs (including Early Head Start programs), and \$10,000,000 for migrant and seasonal Head Start programs, to increase enrollment in the programs involved;

(ii) subject to clause (iii), if the remaining amount is not sufficient to carry out clause (i)—

(I) for each of fiscal years 2008, 2009, and 2010—

(aa) subject to subparagraph (B), provide 5 percent of that amount for Indian Head Start programs (including Early Head Start programs), and 5 percent of that amount for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

(bb) use 90 percent of that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage (but not less than 50 percent) of the cost of living increase described in clause (i); and

(II) for fiscal year 2011 and each subsequent fiscal year—

(aa) provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the cost of living increase described in clause (i); and

(bb) subject to subparagraph (B), with any portion of the remaining amount that is not used under item (aa), provide equal amounts for Indian Head Start programs (including Early Head Start programs), and for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

(iii) if the remaining amount is not sufficient to carry out clause (ii) for the fiscal year involved, use that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage of the cost of living increase described in clause (i).

(B)(i) Notwithstanding any other provision of this paragraph, the Indian Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, and the migrant and seasonal Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, under clause (i)(II), and subclauses (I)(aa) and (II)(bb) of clause (ii), of subparagraph (A) (referred to in this subsection as the “special expansion provisions”), to increase enrollment in the programs involved.

(ii)(I) Funds that are appropriated under section 9834 of this title for a fiscal year, and made available to Indian Head Start programs or mi-

grant or seasonal Head Start programs under the special expansion provisions, shall remain available until the end of the following fiscal year.

(II) For purposes of subclause (I)—

(aa) if no portion is reallocated under clause (iii), those funds shall remain available to the programs involved; or

(bb) if a portion is reallocated under clause (iii), the portion shall remain available to the recipients of the portion.

(iii) Of the funds made available as described in clause (ii), the Secretary shall reallocate the portion that the Secretary determines is unobligated 18 months after the funds are made available. The Secretary shall add that portion to the balance described in paragraph (4), and reallocate the portion in accordance with paragraph (4), for the following fiscal year referred to in clause (ii).

(4)(A) Except as provided in subparagraph (B), from any amount remaining for a fiscal year after the Secretary carries out paragraphs (2) and (3) (referred to in this paragraph as the “balance”), the Secretary shall—

(i) reserve 40 percent to carry out subparagraph (C) and paragraph (5);

(ii) reserve 45 percent to carry out subparagraph (D); and

(iii) reserve 15 percent (which shall remain available through the end of fiscal year 2012) to provide funds for carrying out section 9837b(b)(2) of this title.

(B)(i) Under the circumstances described in clause (ii), from the balance, the Secretary shall—

(I) reserve 45 percent to carry out subparagraph (C) and paragraph (5); and

(II) reserve 55 percent to carry out subparagraph (D).

(ii) The Secretary shall make the reservations described in clause (i) for a fiscal year if—

(I) the total cumulative amount reserved under subparagraph (A)(iii) for all preceding fiscal years equals \$100,000,000; or

(II) in the 2-year period preceding such fiscal year, funds were reserved under subparagraph (A)(iii) in an amount that totals not less than \$15,000,000 and the Secretary received no approvable applications for such funds.

(iii) The total cumulative amount reserved under subparagraph (A)(iii) for all fiscal years may not be greater than \$100,000,000.

(C) The Secretary shall fund the quality improvement activities described in paragraph (5) using the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of which—

(i) a portion that is less than 10 percent may be reserved by the Secretary to provide funding to Head Start agencies (including Early Head Start agencies) that demonstrate the greatest need for additional funding for such activities, as determined by the Secretary; and

(ii) a portion that is not less than 90 percent shall be reserved by the Secretary to allot, to each Head Start agency (including each Early Head Start agency), an amount that bears the

same ratio to such portion as the number of enrolled children served by the agency involved bears to the number of enrolled children served by all the Head Start agencies (including Early Head Start agencies), except that the Secretary shall account for the additional costs of serving children in Early Head Start programs and may consider whether an agency is providing a full-day program or whether an agency is providing a full-year program.

(D) The Secretary shall fund expansion of Head Start programs (including Early Head Start programs) using the amount reserved under subparagraph (A)(ii) or subparagraph (B)(i)(II), as appropriate, of which the Secretary shall—

- (i) use 0.2 percent for Head Start programs funded under clause (iv) or (v) of paragraph (2)(B) (other than Early Head Start programs);
- (ii) for any fiscal year after the last fiscal year for which Indian Head Start programs receive funds under the special expansion provisions, use 3 percent for Head Start programs funded under paragraph (2)(B)(ii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 9844(k) of this title indicate that the percentage should be increased;
- (iii) for any fiscal year after the last fiscal year for which migrant or seasonal Head Start programs receive funds under the special expansion provisions, use 4.5 percent for Head Start programs funded under paragraph (2)(B)(iii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 9844(l) of this title indicate that the percentage should be increased; and
- (iv) from the remainder of the reserved amount—

(I) use 50 percent for Head Start programs funded under paragraph (2)(B)(i) (other than Early Head Start programs), of which—

- (aa) the covered percentage shall be allocated among the States serving less than 60 percent (as determined by the Secretary) of children who are 3 or 4 years of age from families whose income is below the poverty line, by allocating to each of those States an amount that bears the same relationship to that covered percentage as the number of children who are less than 5 years of age from families whose income is below the poverty line (referred to in this subclause as “young low-income children”) in that State bears to the number of young low-income children in all those States; and
- (bb) the remainder shall be allocated proportionately among the States on the basis of the number of young low-income children; and

(II) use 50 percent for Early Head Start programs.

(E) In this paragraph, the term “covered percentage” means—

- (i) for fiscal year 2008, 30 percent;
- (ii) for fiscal year 2009, 40 percent;
- (iii) for fiscal year 2010, 50 percent;
- (iv) for fiscal year 2011, 55 percent; and
- (v) for fiscal year 2012, 55 percent.

(5)(A) Not less than 50 percent of the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of paragraph (4) to carry out quality improvement activities under paragraph (4)(C) and this paragraph shall be used to improve the compensation (including benefits) of educational personnel, family service workers, and child counselors, as described in sections 9839(a) and 9848 of this title, in the manner determined by the Head Start agencies (including Early Head Start agencies) involved, to—

(i) ensure that compensation is adequate to attract and retain qualified staff for the programs involved in order to enhance program quality;

(ii) improve staff qualifications and assist with the implementation of career development programs for staff that support ongoing improvement of their skills and expertise; and

(iii) provide education and professional development to enable teachers to be fully competent to meet the professional standards established under section 9843a(a)(1) of this title, including—

(I) providing assistance to complete post-secondary course work;

(II) improving the qualifications and skills of educational personnel to become certified and licensed as bilingual education teachers, or as teachers of English as a second language; and

(III) improving the qualifications and skills of educational personnel to teach and provide services to children with disabilities.

(B) Any remaining funds from the reserved amount described in subparagraph (A) shall be used to carry out any of the following activities:

(i) Supporting staff training, child counseling, and other services, necessary to address the challenges of children from immigrant, refugee, and asylee families, homeless children, children in foster care, limited English proficient children, children of migrant or seasonal farmworker families, children from families in crisis, children referred to Head Start programs (including Early Head Start programs) by child welfare agencies, and children who are exposed to chronic violence or substance abuse.

(ii) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, and are accessible to children with disabilities and other individuals with disabilities.

(iii) Employing additional qualified classroom staff to reduce the child-to-teacher ratio in the classroom and additional qualified family service workers to reduce the family-to-staff ratio for those workers.

(iv) Ensuring that Head Start programs have qualified staff that promote the language skills and literacy growth of children and that provide children with a variety of skills that

have been identified, through scientifically based reading research, as predictive of later reading achievement.

(v) Increasing hours of program operation, including—

(I) conversion of part-day programs to full-working-day programs; and

(II) increasing the number of weeks of operation in a calendar year.

(vi) Improving communitywide strategic planning and needs assessments for Head Start programs and collaboration efforts for such programs, including outreach to children described in clause (i).

(vii) Transporting children in Head Start programs safely, except that not more than 10 percent of funds made available to carry out this paragraph may be used for such purposes.

(viii) Improving the compensation and benefits of staff of Head Start agencies, in order to improve the quality of Head Start programs.

(6) No sums appropriated under this subchapter may be combined with funds appropriated under any provision other than this subchapter if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such sums appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.

(7) In this subsection:

(A) The term “base grant”, used with respect to a fiscal year, means the amount of permanent ongoing funding (other than funding described in sections 9840a(g)(2)(A)(i) of this title and paragraph (2)(C)(i)(II)(aa)) provided to a Head Start agency (including an Early Head Start agency) under this subchapter for that fiscal year.

(B) The term “cost-of-living increase”, used with respect to an agency for a fiscal year, means an increase in the funding for that agency, based on the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the prior fiscal year, calculated on the amount of the base grant for that agency for the prior fiscal year.

(C) For the purposes of this subsection, the term “State” does not include Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

#### (b) Federal share

Financial assistance extended under this subchapter for a Head Start program shall not exceed 80 percent of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines that such action is required in furtherance of the purposes of this subchapter. For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

(1) the lack of resources available in the community that may prevent the Head Start

agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

#### (c) Services covered

No programs shall be approved for assistance under this subchapter unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

#### (d) Enrollment of children with disabilities and provision of services

(1) The Secretary shall establish policies and procedures to assure that, for fiscal year 2009 and thereafter, not less than 10 percent of the total number of children actually enrolled by each Head Start agency and each delegate agency will be children with disabilities who are determined to be eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), by the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.).

(2) Such policies and procedures shall ensure the provision of early intervening services, such as educational and behavioral services and supports, to meet the needs of children with disabilities, prior to an eligibility determination under the Individuals with Disabilities Education Act.

(3) Such policies and procedures shall require Head Start agencies to provide timely referral to and collaborate with the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act to ensure the provision of special education and related services and early intervention services, and the coordination of programmatic efforts, to meet the special needs of such children.

(4) The Secretary shall establish policies and procedures to provide Head Start agencies with waivers of the requirements of paragraph (1) for not more than 3 years. Such policies and procedures shall require Head Start agencies, in order to receive such waivers, to provide evidence demonstrating that the Head Start agencies are

making reasonable efforts on an annual basis to comply with the requirements of that paragraph.

(5) Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under the Individuals with Disabilities Education Act.

**(e) Distribution of benefits between residents of rural and urban areas**

The Secretary shall adopt appropriate administrative measures to assure that the benefits of this subchapter will be distributed equitably between residents of rural and urban areas.

**(f) Guidelines for local service delivery models**

(1) Not later than 1 year after December 12, 2007, the Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs, including models that leverage the capacity and capabilities of the delivery system of early childhood education and development services or programs.

(2) In establishing the procedures the Secretary shall establish procedures to provide for—

(A) the conversion of part-day programs to full-working-day programs or part-day slots to full-working-day slots; and

(B) serving additional infants and toddlers pursuant to section 9840(a)(5) of this title.

**(g) Maintenance of current services; expansion of Head Start programs**

(1) For the purpose of expanding Head Start programs<sup>1</sup> the Secretary shall take into consideration—

(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed standards described in section 9836a(a)(1) of this title and other requirements under this subchapter, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);

(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

(C) the extent to which the applicant has undertaken a communitywide strategic planning and needs assessment involving other entities, including community organizations, and Federal, State, and local public agencies (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), that provide services to children and families, such as—

(i) family support services;

(ii) child abuse prevention services;

(iii) protective services;

(iv) foster care;

(v) services for families in whose homes English is not the language customarily spoken;

(vi) services for children with disabilities; and

(vii) services for homeless children;

(D) the extent to which the family needs assessment and communitywide strategic planning and needs assessment of the applicant reflect a need to provide full-working-day or full calendar year services and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with the State and local community providers of child care or preschool services to provide full-working-day full calendar year services;

(E) the number of eligible children, as described in clause (i) or (ii) of section 9840(a)(1)(B) of this title, in each community who are not participating in a Head Start program or any other publicly funded early childhood education and development program;

(F) the concentration of low-income families in each community;

(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will leverage the existing delivery systems of such services and enhance the resource capacity of the applicant; and

(H) the extent to which the applicant, in providing services, successfully coordinated activities with the local educational agency serving the community involved (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), and with schools in which children participating in such applicant's program will enroll following such program, with respect to such services and the education services provided by such local educational agency.

(2) Notwithstanding paragraph (1), in using funds made available for expansion under subsection (a)(4)(D), the Secretary shall first allocate the funds to qualified applicants proposing to use such funds to serve children from families with incomes below the poverty line. Agencies that receive such funds are subject to the eligibility and enrollment requirements under section 9840(a)(1) of this title.

(3)(A) In the event that the amount appropriated to carry out the program under this subchapter for a fiscal year does not exceed the amount appropriated for the prior fiscal year, or is not sufficient to maintain services comparable to the services provided under this subchapter during the prior fiscal year, a Head Start agency may negotiate with the Secretary a reduced funded enrollment level without a reduction in the amount of the grant received by the agency under this subchapter, if such agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.

(B) In accordance with this paragraph, the Secretary shall set up a process for Head Start

<sup>1</sup> So in original. Probably should be followed by a comma.

agencies to negotiate the reduced funded enrollment levels referred to in subparagraph (A) for the fiscal year involved.

(C) In the event described in subparagraph (A), the Secretary shall be required to notify Head Start agencies of their ability to negotiate the reduced funded enrollment levels if such an agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.

**(h) Full-working-day services**

Financial assistance provided under this subchapter may be used by each Head Start program to provide full-working-day Head Start services to any eligible child throughout the full calendar year.

**(i) Vehicle safety regulations**

The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs. The regulations shall also establish requirements to ensure the appropriate supervision of, and appropriate background checks for, individuals with whom the agencies contract to transport those children.

**(j) Compensation of staff**

Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this subchapter<sup>2</sup> shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

**(k) Flexibility in hours of service requirement**

(1) The Secretary shall allow center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations in effect on May 18, 1994, to be provided to children in Head Start programs so long as such agencies do not—

- (A) provide less than 3 hours of service per day;
- (B) reduce the number of days of service per week; or
- (C) reduce the number of days of service per year.

(2) The provisions of this subsection shall not be construed to restrict the authority of the Secretary to fund alternative program variations authorized under section 1306.35 of title 45 of the Code of Federal Regulations in effect on May 18, 1994.

**(l) Frequent relocation of migrant families**

(1) With funds made available under this subchapter to expand migrant and seasonal Head Start programs, the Secretary shall give priority to migrant and seasonal Head Start programs that serve eligible children of migrant or seasonal farmworker families whose work requires them to relocate most frequently.

(2) In determining the need and demand for migrant and seasonal Head Start programs (and

services provided through such programs), the Secretary shall consult with appropriate entities, including providers of services for migrant and seasonal Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant and seasonal Head Start programs (and such services), ensure that there is an adequate level of such services for eligible children of migrant farmworker families before approving an increase in the allocation of funds provided under this subchapter for unserved eligible children of seasonal farmworker families. In serving the eligible children of seasonal farmworker families, the Secretary shall ensure that services provided by migrant and seasonal Head Start programs do not duplicate or overlap with other Head Start services available to eligible children of such farmworker families.

(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement at the national level for meeting the needs of Indian children and children of migrant and seasonal farmworker families and shall ensure—

(A) the provision of training and technical assistance by staff with knowledge of and experience in working with such populations; and

(B) the appointment of a national Indian Head Start collaboration director and a national migrant and seasonal Head Start collaboration director.

(4)(A) For the purposes of paragraph (3), the Secretary shall conduct an annual consultation in each affected Head Start region, with tribal governments operating Head Start (including Early Head Start) programs.

(B) The consultations shall be for the purpose of better meeting the needs of Indian, including Alaska Native, children and their families, in accordance with this subchapter, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations.

(C) The Secretary shall publish a notification of the consultations in the Federal Register before conducting the consultations.

(D) The Secretary shall ensure that a detailed report of each consultation shall be prepared and made available, within 90 days after the consultation, to all tribal governments receiving funds under this subchapter.

**(m) Enrollment and participation of homeless children**

The Secretary shall issue rules to establish policies and procedures to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such rules shall require Head Start agencies—

(1) to implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment;

(2) to allow families of homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization and other medical records, birth certificates, and other documents, are obtained within a reasonable time frame; and

<sup>2</sup> See References in Text note below.

(3) to coordinate individual Head Start programs with efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

**(n) Construction of prerequisites to participation in program**

Nothing in this subchapter shall be construed to require a State to establish a publicly funded program of early childhood education and development, or to require any child to participate in such a publicly funded program, including a State-funded preschool program, or to participate in any initial screening before participating in a publicly funded program of early childhood education and development, except as provided under sections 612(a)(3) and 635(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3), 1435(a)(5)).

**(o) Curricula**

All curricula funded under this subchapter shall be based on scientifically valid research, and be age and developmentally appropriate. The curricula shall reflect all areas of child development and learning and be aligned with the Head Start Child Outcomes Framework. Parents shall have the opportunity to examine any such curricula or instructional materials funded under this subchapter.

(Pub. L. 97-35, title VI, § 640, Aug. 13, 1981, 95 Stat. 499; Pub. L. 98-558, title I, § 103, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99-425, title I, § 102, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-476, title IX, § 901(d), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101-501, title I, §§ 104(a), 105, 123(b), Nov. 3, 1990, 104 Stat. 1224, 1228, 1237; Pub. L. 102-119, § 26(g), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102-401, § 2(a)-(d), (k)(1), Oct. 7, 1992, 106 Stat. 1956, 1958; Pub. L. 103-252, title I, § 105, May 18, 1994, 108 Stat. 626; Pub. L. 104-193, title I, § 110(t), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 105-285, title I, § 106(a)-(d), Oct. 27, 1998, 112 Stat. 2705-2711; Pub. L. 108-446, title III, § 305(l)(1), (2), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 110-134, § 6, Dec. 12, 2007, 121 Stat. 1367.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. Part C of the Act is classified generally to subchapter III (§ 1431 et seq.) of chapter 33 of Title 20. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (m)(3), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

This subchapter, referred to in subsec. (j), was in the original "this Act" and was translated as reading "this subchapter", meaning subchapter B (§§ 635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, known as the Head Start Act, which is classified generally to this subchapter, to reflect the probable intent of Congress.

**AMENDMENTS**

2007—Subsec. (a). Pub. L. 110-134, § 6(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to distribution of appropriations, allotment requirements, and priorities for Head Start funds.

Subsec. (d). Pub. L. 110-134, § 6(b), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary shall establish policies and procedures designed to assure that for fiscal year 1999 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for children with disabilities and that services shall be provided to meet their special needs. Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1444, 1419)."

Subsec. (f). Pub. L. 110-134, § 6(c), designated existing provisions as par. (1), substituted "Not later than 1 year after December 12, 2007, the" for "The" and "needs, including models that leverage the capacity and capabilities of the delivery system of early childhood education and development services or programs," for "needs," and added par. (2).

Subsec. (g)(1). Pub. L. 110-134, § 6(d)(1), (3), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: "If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index For All Urban Consumers, as published by the Bureau of Labor Statistics."

Subsec. (g)(2). Pub. L. 110-134, § 6(d)(3), (4), added par. (2) and redesignated former par. (2) as (1).

Pub. L. 110-134, § 6(d)(2)(A), struck out "in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4) of this section," after "Head Start programs" in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 110-134, § 6(d)(2)(B), substituted "standards described in section 9836a(a)(1) of this title" for "performance standards".

Subsec. (g)(2)(C). Pub. L. 110-134, § 6(d)(2)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: "the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations and public agencies serving children and families (including organizations serving families in whose homes English is not the language customarily spoken), and organizations and public entities serving children with disabilities;"

Subsec. (g)(2)(D). Pub. L. 110-134, § 6(d)(2)(D), substituted "family needs assessment and communitywide strategic planning and needs assessment" for "family and community needs assessment", "reflect" for "reflects", and "the State and local" for "other local".

Subsec. (g)(2)(E). Pub. L. 110-134, § 6(d)(2)(E), added subpar. (E) and struck out former subpar. (E) which read as follows: "the numbers of eligible children in each community who are not participating in a Head Start program or any other early childhood program;"

Subsec. (g)(2)(G), (H). Pub. L. 110-134, § 6(d)(2)(F), added subpars. (G) and (H) and struck out former subpars. (G) and (H) which read as follows:

"(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant; and

"(H) the extent to which the applicant, in providing services, plans to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start

program operated by such agency will enroll following such program, regarding such services and the education services provided by such local educational agency.”

Subsec. (g)(3), (4). Pub. L. 110-134, §6(d)(1), (4), added par. (3) and struck out former pars. (3) and (4) which read as follows:

“(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) of this section to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).

“(4) Notwithstanding subsection (a)(2) of this section, after taking into account paragraph (1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) of this section for the purpose of increasing funds available for activities described in such subsection.”

Subsec. (i). Pub. L. 110-134, §6(e), inserted at end “The regulations shall also establish requirements to ensure the appropriate supervision of, and appropriate background checks for, individuals with whom the agencies contract to transport those children.”

Subsec. (l)(1). Pub. L. 110-134, §6(f)(1), substituted “With funds made available under this subchapter to expand migrant and seasonal Head Start programs,” for “With funds made available under subsection (a)(2) of this section to migrant and seasonal Head Start programs,” and “children of migrant or seasonal farmworker families” for “children of migrant and seasonal farmworker families”.

Subsec. (l)(2). Pub. L. 110-134, §6(f)(2), substituted “In determining” for “For purposes of subsection (a)(2)(A) of this section, in determining”, “children of migrant farmworker families” for “children of migrant farmworkers”, “under this subchapter” for “under such subsection”, “children of seasonal farmworker families” for “children of seasonal farmworkers” in two places, and “children of such farmworker families” for “children of such farmworkers”.

Subsec. (l)(3), (4). Pub. L. 110-134, §6(f)(3), added pars. (3) and (4) and struck out former par. (3) which read as follows: “In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the needs of children of migrant and seasonal farmworkers and Indian children and shall ensure that appropriate funding is provided to meet such needs.”

Subsecs. (m) to (o). Pub. L. 110-134, §6(g), added subsecs. (m) to (o).

2004—Subsec. (a)(5)(C)(iv). Pub. L. 108-446, §305(l)(1), substituted “1431-1444” for “1431-1445”.

Subsec. (d). Pub. L. 108-446, §305(l)(2), substituted “U.S.C.” for “U.S.C.” and “1431-1444” for “1431-1445”.

1998—Subsec. (a)(2). Pub. L. 105-285, §106(a)(1)(F), inserted at end of concluding provisions “No Freely Associated State may receive financial assistance under this subchapter after fiscal year 2002.”

Subsec. (a)(2)(A). Pub. L. 105-285, §106(a)(1)(A), substituted “Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs” for “and migrant Head Start programs and services for handicapped children”, “Head Start programs and by migrant and seasonal” for “and migrant” before “Head Start programs” in two places, and “1998” for “1994”.

Subsec. (a)(2)(B). Pub. L. 105-285, §106(a)(1)(B), substituted “(B) payments, subject to paragraph (7)—”, cls. (i) to (iii), and “according” for “(B) payments to Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands according”.

Subsec. (a)(2)(C). Pub. L. 105-285, §106(a)(1)(C), substituted “, of which not less than \$3,000,000 of the amount appropriated for such fiscal year shall be made available to carry out activities described in section 9843(c)(4) of this title;” for “; and”.

Subsec. (a)(2)(D). Pub. L. 105-285, §106(a)(1)(D), which directed substitution of “carried out under paragraph

(1), (2), or (3) of section 9836a(d) of this title related to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies; and” for “related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title.”, was executed by making the substitution for “related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title.”

Subsec. (a)(2)(E). Pub. L. 105-285, §106(a)(1)(E), added subpar. (E).

Subsec. (a)(3)(A)(i)(I). Pub. L. 105-285, §106(a)(2)(A), substituted “60 percent of such excess amount for fiscal year 1999, 50 percent of such excess amount for fiscal year 2000, 47.5 percent of such excess amount for fiscal year 2001, 35 percent of such excess amount for fiscal year 2002, and 25 percent of such excess amount for fiscal year 2003;” for “25 percent of such excess amount;”.

Subsec. (a)(3)(B)(ii). Pub. L. 105-285, §106(a)(2)(B)(i), substituted “adequate numbers of qualified staff” for “adequate qualified staff” and inserted “and children with disabilities” before “, when appropriate”.

Subsec. (a)(3)(B)(iv). Pub. L. 105-285, §106(a)(2)(B)(ii), inserted before period at end “, and to encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development”.

Subsec. (a)(3)(B)(v). Pub. L. 105-285, §106(a)(2)(B)(iii), inserted “and collaboration efforts for such programs” before period at end.

Subsec. (a)(3)(B)(vi). Pub. L. 105-285, §106(a)(2)(B)(iv), inserted before period at end “, and are accessible to children with disabilities and their parents”.

Subsec. (a)(3)(B)(vii), (viii). Pub. L. 105-285, §106(a)(2)(B)(v), (vi), added cl. (vii) and redesignated former cl. (vii) as (viii).

Subsec. (a)(3)(C)(i)(I). Pub. L. 105-285, §106(a)(2)(C)(i)(I), substituted “this paragraph” for “this subparagraph”, “of classroom teachers and other staff” for “of staff”, and “qualified staff, including recruitment and retention pursuant to achieving the requirements set forth in section 9843a(a) of this title” for “such staff”, and inserted at end “Preferences in awarding salary increases, in excess of cost-of-living allowances, with such funds shall be granted to classroom teachers and staff who obtain additional training or education related to their responsibilities as employees of a Head Start program.”

Subsec. (a)(3)(C)(i)(II). Pub. L. 105-285, §106(a)(2)(C)(i)(II), substituted “this subparagraph” for “the subparagraph”.

Subsec. (a)(3)(C)(i)(III). Pub. L. 105-285, §106(a)(2)(C)(i)(III), added subcl. (III).

Subsec. (a)(3)(C)(ii). Pub. L. 105-285, §106(a)(2)(C)(ii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.”

Subsec. (a)(3)(C)(v) to (vii). Pub. L. 105-285, §106(a)(2)(C)(iii), (iv), redesignated cls. (vi) and (vii) as (v) and (vi), respectively, and struck out former cl. (v) which read as follows: “To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.”

Subsec. (a)(3)(D)(i)(II). Pub. L. 105-285, §106(a)(2)(D), substituted “Head Start programs and migrant and seasonal” for “and migrant”.

Subsec. (a)(4). Pub. L. 105-285, §106(a)(3)(C), inserted concluding provisions.

Subsec. (a)(4)(A). Pub. L. 105-285, §106(a)(3)(A), substituted “1998” for “1981”.

Subsec. (a)(4)(B). Pub. L. 105-285, §106(a)(3)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

“(B)(i) 33½ percent of any amount available after all allotments have been made under subparagraph (A) for such fiscal year shall be distributed on the basis of the

relative number of children from birth through 18 years of age, on whose behalf payments are made under the State program of assistance funded under part A of title IV of the Social Security Act in each State as compared to all States; and

“(ii) 66% percent of such amount shall be distributed on the basis of the relative number of children from birth through 5 years of age living with families with incomes below the poverty line in each State as compared to all States.”

Subsec. (a)(5)(A). Pub. L. 105-285, §106(a)(4)(A), substituted “subparagraphs (B) and (D)” for “subparagraph (B)”.

Subsec. (a)(5)(B). Pub. L. 105-285, §106(a)(4)(B), inserted before period at end “and to encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under subchapter II-B of this chapter and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families”.

Subsec. (a)(5)(C)(i)(I). Pub. L. 105-285, §106(a)(4)(C)(i), inserted “the appropriate regional office of the Administration for Children and Families and” before “agencies”.

Subsec. (a)(5)(C)(iii). Pub. L. 105-285, §106(a)(4)(C)(ii), struck out “and” at end.

Subsec. (a)(5)(C)(iv). Pub. L. 105-285, §106(a)(4)(C)(iii), substituted “education, and community service activities,” for “education, and national service activities,” “activities” for “and activities” before “relating to children with disabilities”, and “(including coordination of services with those State officials who are responsible for administering part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419), and services for homeless children;” for period at end.

Subsec. (a)(5)(C)(v), (vi). Pub. L. 105-285, §106(a)(4)(C)(iv), added cls. (v) and (vi).

Subsec. (a)(5)(D) to (F). Pub. L. 105-285, §106(a)(4)(D), (E), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

Subsec. (a)(6). Pub. L. 105-285, §106(a)(5), designated existing provisions as subpar. (A), substituted “7.5 percent for fiscal year 1999, 8 percent for fiscal year 2000, 9 percent for fiscal year 2001, 10 percent for fiscal year 2002, and 10 percent for fiscal year 2003, of the amount appropriated pursuant to section 9834(a) of this title, except as provided in subparagraph (B).” for “3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 9834(a) of this title.”, and added subpars. (B) and (C).

Subsec. (d). Pub. L. 105-285, §106(b)(2), which directed striking out “(as defined in section 1401(a) of title 20)”, was executed by striking out “(as defined in section 1401(a)(1) of title 20)” after “children with disabilities” to reflect the probable intent of Congress.

Pub. L. 105-285, §106(b)(1), (3), substituted “1999” for “1982” and inserted at end “Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419).”.

Subsec. (g)(2)(A). Pub. L. 105-285, §106(c)(1)(A), inserted before semicolon at end “, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter)”.

Subsec. (g)(2)(C). Pub. L. 105-285, §106(c)(1)(B), inserted “, and organizations and public entities serving children with disabilities” before semicolon at end.

Subsec. (g)(2)(D). Pub. L. 105-285, §106(c)(1)(C), inserted before semicolon at end “and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day full calendar year services”.

Subsec. (g)(2)(E). Pub. L. 105-285, §106(c)(1)(D), substituted “program or any other early childhood program;” for “program; and”.

Subsec. (g)(2)(G), (H). Pub. L. 105-285, §106(c)(1)(E), (F), added subpars. (G) and (H).

Subsec. (g)(4). Pub. L. 105-285, §106(c)(2), added par. (4).

Subsec. (I). Pub. L. 105-285, §106(d), designated existing provisions as par. (1), substituted “migrant and seasonal Head Start programs” for “migrant Head Start programs” in two places and “migrant and seasonal farmworker families” for “migrant families”, and added pars. (2) and (3).

1996—Subsec. (a)(4)(B)(i). Pub. L. 104-193 substituted “State program of assistance funded” for “program of aid to families with dependent children under a State plan approved”.

1994—Subsec. (a)(1). Pub. L. 103-252, §105(b)(1), substituted “through (4), and subject to paragraphs (5) and (6)” for “through (5)”.

Subsec. (a)(2)(A). Pub. L. 103-252, §105(b)(2)(A), substituted “1994” for “1990”.

Subsec. (a)(2)(D). Pub. L. 103-252, §105(b)(2)(B), inserted “(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 9836a(c) of this title, and of activities related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title)” after “Secretary”.

Subsec. (a)(3)(A), (B). Pub. L. 103-252, §105(a)(2), added subpars. (A) and (B). Former subpars. (A) and (B) redesignated subpars. (C) and (D), respectively.

Subsec. (a)(3)(C). Pub. L. 103-252, §105(a)(1)-(3), redesignated subpar. (A) as (C), substituted in introductory provisions “Quality improvement funds shall be used to carry out any or all of the following activities:” for “For any fiscal year for which the amount appropriated under section 9834(a) of this title exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:”, and added cl. (vii).

Subsec. (a)(3)(D). Pub. L. 103-252, §105(a)(1), redesignated subpar. (B) as (D).

Subsec. (a)(3)(D)(i). Pub. L. 103-252, §105(a)(4)(A), (b)(3), struck out “for the first, second, and third fiscal years for which funds are so reserved” after “subparagraph (A)” in introductory provisions, substituted “paragraph (4)” for “paragraph (5)” in subcl. (I), and inserted “geographical areas specified in subsection (a)(2)(B) of this section and Indian and migrant Head Start programs,” after “States,” in subcl. (II).

Subsec. (a)(3)(D)(ii). Pub. L. 103-252, §105(b)(3), substituted “paragraph (4)” for “paragraph (5)”.

Pub. L. 103-252, §105(a)(4)(B), (E), redesignated cl. (iv) as (ii) and struck out former cl. (ii) which read as follows: “Funds reserved under subparagraph (A) for any fiscal year subsequent to the third fiscal year for which funds are so reserved shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective subsequent fiscal year.”

Subsec. (a)(3)(D)(iii). Pub. L. 103-252, §105(a)(4)(B), (E), redesignated cl. (vi) as (iii) and struck out former cl. (iii) which read as follows: “To be expended for the activities specified in subparagraph (A) in the first fiscal, second, and third fiscal years for which funds are required by such subparagraph to be reserved, funds allotted under clause (i)(I) shall be used by the Secretary to make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year, in the amount that bears the same ratio to the amount allotted under clause (i)(I) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.”

Subsec. (a)(3)(D)(iv). Pub. L. 103-252, §105(a)(4)(E), redesignated cl. (iv) as (ii).

Pub. L. 103-252, §105(a)(4)(C), substituted "Funds" for "To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, funds" and "clause (i)" for "clause (ii)", inserted ", for expenditure for activities specified in subparagraph (C)", and struck out at end "The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (ii) for such State for such fiscal year."

Subsec. (a)(3)(D)(v). Pub. L. 103-252, §105(a)(4)(E), struck out cl. (v) which read as follows: "If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (iii) or (iv), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency."

Subsec. (a)(3)(D)(vi). Pub. L. 103-252, §105(a)(4)(E), redesignated cl. (vi) as (iii).

Pub. L. 103-252, §105(a)(4)(D), substituted "paragraph (2) or (4)" for "paragraphs (2), (4), and (5)".

Subsec. (a)(4). Pub. L. 103-252, §105(b)(4), (5), redesignated par. (5) as (4), substituted "Subject to section 9834(b) of this title, the Secretary" for "The Secretary", and struck out former par. (4), which related to Secretary reserving sums for grants to carry out early childhood intervention programs, known as "Parent-Child Centers".

Subsec. (a)(5), (6). Pub. L. 103-252, §105(b)(6), added pars. (5) and (6). Former pars. (5) and (6) redesignated (4) and (7), respectively.

Subsec. (a)(7). Pub. L. 103-252, §105(b)(4), redesignated par. (6) as (7).

Subsec. (g). Pub. L. 103-252, §105(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (h). Pub. L. 103-252, §105(d), substituted "Financial assistance provided under this subchapter may be used by each Head Start program to" for "Each Head Start program may".

Subsecs. (j) to (l). Pub. L. 103-252, §105(e), added subsecs. (j) to (l).

1992—Subsec. (a)(2)(A). Pub. L. 102-401, §2(k)(1)(A)(i)(I), inserted "children" after "handicapped".

Subsec. (a)(2)(B). Pub. L. 102-401, §2(k)(1)(A)(i)(II), substituted "Commonwealth of" for "Commonwealth of,".

Subsec. (a)(2)(C). Pub. L. 102-401, §2(k)(1)(A)(i)(III), substituted "such fiscal year" for "any such fiscal year".

Subsec. (a)(3)(A)(vi). Pub. L. 102-401, §2(k)(1)(A)(ii), substituted "paragraph (2)(C)" for "subsection (a)(2)(C) of this section".

Subsec. (a)(3)(B)(i). Pub. L. 102-401, §2(a)(1), substituted ", second, and third" for "and second".

Subsec. (a)(3)(B)(ii). Pub. L. 102-401, §2(a)(2), substituted "third" for "second".

Subsec. (a)(3)(B)(iii). Pub. L. 102-401, §2(a)(1), substituted ", second, and third" for "and second".

Subsec. (a)(4)(B)(i)(II). Pub. L. 102-401, §2(b), inserted ", literacy," after "skills".

Subsec. (a)(5)(B)(i). Pub. L. 102-401, §2(k)(1)(A)(iii), substituted "subparagraph (A)" for "clause (A)".

Subsec. (b). Pub. L. 102-401, §2(c), struck out ", in accordance with regulations establishing objective criteria," after "if the Secretary determines" and inserted after first sentence "For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—" and cls. (1) to (5).

Subsec. (g). Pub. L. 102-401, §2(k)(1)(B), substituted "Price Index For All" for "Price Index for all".

Subsec. (i). Pub. L. 102-401, §2(d), added subsec. (i).

1991—Subsec. (d). Pub. L. 102-119 substituted "section 1401(a)(1) of title 20" for "paragraph (1) of section 1401 of title 20". The references to section 1401 of title 20 include the substitution of "Individuals with Disabilities

Education Act" for "Education of the Handicapped Act" in the original.

1990—Subsec. (a)(1). Pub. L. 101-501, §104(a)(1), substituted "through (5)" for "and (3)".

Subsec. (a)(2). Pub. L. 101-501, §104(a)(2)(D), (E), struck out before last sentence "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984." and inserted "or paragraph (3)" after "under this paragraph" in last sentence.

Subsec. (a)(2)(A). Pub. L. 101-501, §104(a)(2)(A), substituted ", except that there shall be made available for each fiscal year for use by Indian and migrant Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990" for "children, except that there shall be made available for use by Indian and migrant Head Start programs, on a nationwide basis, no less funds for fiscal year 1987 and each subsequent fiscal year than were obligated for use by Indian and migrant Head Start programs for fiscal year 1985".

Subsec. (a)(2)(B). Pub. L. 101-501, §104(a)(2)(B), substituted "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of" for "the Trust Territory of the Pacific Islands".

Subsec. (a)(2)(C). Pub. L. 101-501, §104(a)(2)(C), substituted "2 percent of the amount appropriated for any such fiscal year" for "the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

Subsec. (a)(3), (4). Pub. L. 101-501, §104(a)(5), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (a)(5). Pub. L. 101-501, §104(a)(3), (4), redesignated par. (3) as (5) and struck out "87 percent of the" after "allot the remaining".

Subsec. (a)(6). Pub. L. 101-501, §104(a)(4), (6), redesignated par. (4) as (6), inserted "the Commonwealth of" before "the Northern Mariana", and substituted "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau" for "or the Trust Territory of the Pacific Islands".

Subsec. (d). Pub. L. 101-501, §105(1), struck out sentence at end requiring Secretary to report to Congress at least annually on status of children with disabilities in Head Start programs.

Pub. L. 101-476, §901(d), substituted "children with disabilities" for "handicapped children" in two places and substituted "disabling" for "handicapping".

Subsecs. (f), (g). Pub. L. 101-501, §105(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 101-501, §123(b), added subsec. (h).

1986—Subsec. (a)(2)(A). Pub. L. 99-425, in amending cl. (A) generally, designated existing subcl. (i) as all of cl. (A), substituted "1987" for "1982" and "1985" for "1981", and struck out subcl. (ii) relating to cost-of-living adjustments.

1984—Subsec. (a)(2). Pub. L. 98-558 inserted "as described in section 9843 of this title, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982" in cl. (C), and inserted at end "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter."

**Statutory Notes and Related Subsidiaries****CHANGE OF NAME**

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

**EFFECTIVE DATE OF 1996 AMENDMENT**

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

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Pub. L. 102-401, § 4, Oct. 7, 1992, 106 Stat. 1959, provided that:

“(a) **EFFECTIVE DATES.**—(1) Except as provided in paragraph (2) and subsection (b), this Act [amending this section and sections 9835a to 9839, 9846, 9846a, and 9858n of this title and enacting provisions set out as a note under section 9836 of this title] and the amendments made by this Act shall take effect on the date of the enactment of this Act [Oct. 7, 1992].

“(2) The amendment made by section 2(e)(1) [amending section 9836 of this title] shall take effect on July 30, 1992.

“(b) **APPLICATION OF AMENDMENTS.**—The amendments made by this Act, other than the amendment made by section 2(e)(1), shall not apply with respect to fiscal years beginning before October 1, 1992.”

**EFFECTIVE DATE OF 1990 AMENDMENTS**

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of Title 20, Education.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

**§ 9835a. Repealed. Pub. L. 103-252, title I, § 106, May 18, 1994, 108 Stat. 629**

Section, Pub. L. 97-35, title VI, § 640A, as added Pub. L. 101-501, title I, § 106, Nov. 3, 1990, 104 Stat. 1229; amended Pub. L. 102-401, § 2(k)(2), Oct. 7, 1992, 106 Stat. 1958, directed Secretary to prepare both interim and final comprehensive reports to Congress on administration, funding, and demographics of Head Start programs.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF REPEAL**

Repeal effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252,

set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

**§ 9836. Designation of Head Start agencies****(a) Authority to designate****(1) In general**

The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, pursuant to the requirements of this section.

**(2) Interim policy**

Notwithstanding paragraph (1), until such time as the Secretary develops and implements the system for designation renewal under this section, the Secretary is authorized to designate as a Head Start agency, any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, in the manner and process utilized by the Secretary prior to December 12, 2007.

**(b) Application for designation renewal**

To be considered for designation renewal, an entity shall submit an application to the Secretary, at such time and in such manner as the Secretary may require.

**(c) System for designation renewal****(1) In general**

The Secretary shall develop a system for designation renewal that integrates the recommendations of the expert panel convened under paragraph (2) to determine if a Head Start agency is delivering a high-quality and comprehensive Head Start program that meets the educational, health, nutritional, and social needs of the children and families it serves, and meets program and financial management requirements and standards described in section 9836a(a)(1) of this title, based on—

(A) annual budget and fiscal management data;

(B) program reviews conducted under section 9836a(c) of this title;

(C) annual audits required under section 9842 of this title;

(D) classroom quality as measured under section 9836a(c)(2)(F) of this title; and

(E) Program Information Reports.

**(2) Expert panel**

Not later than 3 months after December 12, 2007, the Secretary shall convene an expert panel of 7 members to make recommendations to the Secretary on the development of a transparent, reliable, and valid system for designation renewal.

**(3) Composition of expert panel**

The Secretary, in convening such panel, shall appoint the following:

(A)(i) One member, who has demonstrated competency, as evidenced by training, expertise, and experience, in early childhood program accreditation.

(ii) One member, who has demonstrated competency (as so evidenced) in research on early childhood development.

(iii) One member, who has demonstrated competency (as so evidenced) in governance and finance of nonprofit organizations.

(iv) One member, who has demonstrated competency (as so evidenced) in delivery of services to populations of children with special needs and their families.

(v) One member, who has demonstrated competency (as so evidenced) in assessment and evaluation of programs serving young children.

(B) An employee from the Office of Head Start.

(C) An executive director of a Head Start agency.

#### **(4) Expert panel report**

Within 9 months after being convened by the Secretary, the expert panel shall issue a report to the Secretary that provides recommendations on a proposed system for designation renewal that takes into account the criteria in subparagraphs (A) through (E) of paragraph (1) to evaluate whether a Head Start agency is fulfilling its mission to deliver a high-quality and comprehensive Head Start program, including adequately meeting its governance, legal, and financial management requirements.

#### **(5) Public comment and consideration**

Not later than 3 months after receiving the report described in paragraph (4), the Secretary shall publish a notice describing a proposed system for designation renewal in the Federal Register, including a proposal for the transition to such system, providing at least 90 days for public comment. The Secretary shall review and consider public comments prior to finalizing the system for designation renewal described in this subsection.

#### **(6) Designation renewal system**

Not later than 12 months after publishing a notice describing the proposed system under paragraph (5), the Secretary shall implement the system for designation renewal and use that system to determine—

(A) whether a Head Start grantee is successfully delivering a high-quality and comprehensive Head Start program; and

(B) whether the grantee has any unresolved deficiencies found during the last triennial review under section 9836a(c) of this title.

#### **(7) Implementation of the designation renewal system**

##### **(A) In general**

A grantee who is determined under such system—

(i) to be delivering a high-quality and comprehensive Head Start program shall be designated (consistent with section 9838 of this title) as a Head Start agency for the period of 5 years described in section 9833 of this title;

(ii) to not be delivering a high-quality and comprehensive Head Start program shall be subject to an open competition as described in subsection (d); and

(iii) in the case of an Indian Head Start agency, to not be delivering a high-quality

and comprehensive Head Start program shall (notwithstanding clause (ii)) be subject to the requirements of subparagraph (B).

#### **(B) Tribal government consultation and re-evaluation**

On making a determination described in subparagraph (A)(iii), the Secretary shall engage in government-to-government consultation with the appropriate tribal government or governments for the purpose of establishing a plan to improve the quality of Head Start programs operated by the Indian Head Start agency. Such plan shall be established and implemented within 6 months after the Secretary's determination. Not more than 6 months after the implementation of that plan, the Secretary shall re-evaluate the performance of the Indian Head Start agency. If the Indian Head Start agency is still not delivering a high-quality and comprehensive Head Start program, the Secretary shall conduct an open competition as described in subsection (d), subject to the limitations described in subsection (e).

#### **(8) Transparency, reliability, and validity**

The Secretary shall ensure the system for designation renewal is fair, consistent, and transparent and is applied in a manner that renews designations, in a timely manner, grantees as Head Start agencies for periods of 5 years if such grantees are delivering high-quality and comprehensive Head Start programs. The Secretary shall periodically evaluate whether the criteria of the system are being applied in a manner that is transparent, reliable, and valid.

#### **(9) Transition**

##### **(A) In general**

Each Head Start agency shall be reviewed under the system for designation renewal described in paragraph (6), not later than 3 years after the implementation of such system.

##### **(B) Limitation**

A Head Start agency shall not be subject to the requirements of the system for designation renewal prior to 18 months after December 12, 2007.

##### **(C) Schedule**

The Secretary shall establish and implement a schedule for reviewing each Head Start agency under the system for designation renewal described in paragraph (6), consistent with subparagraphs (A) and (B).

#### **(10) Reports to Congress**

The Secretary shall—

(A) make available to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the report described in paragraph (4);

(B) concurrently with publishing a notice in the Federal Register as described in paragraph (5), provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health,

Education, Labor, and Pensions of the Senate that provides a detailed description of the proposed system described in paragraph (5), including a clear rationale for any differences between the proposed system and the recommendations of the expert panel, if any such differences exist; and

(C) prior to implementing the system for designation renewal, provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate—

(i) summarizing the public comment on the proposed system and the Secretary's response to such comment; and

(ii) describing the final system for designation renewal and the plans for implementation of such system.

**(d) Designation when no entity is renewed**

**(1) In general**

If no entity in a community is determined to be successfully delivering a high-quality and comprehensive Head Start program, as specified in subsection (c), the Secretary shall, after conducting an open competition, designate for a 5-year period a Head Start agency from among qualified applicants in such community.

**(2) Considerations for designation**

In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

(A) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

(B) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential, and to prepare children to succeed in school;

(C) the plan of such applicant to attract and retain qualified staff capable of delivering, including implementing, a high-quality and comprehensive program, including the ability to carry out a research based curriculum aligned with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

(D) the ability of such applicant to maintain child-to-teacher ratios and family service worker caseloads that reflect best practices and are tied to high-quality service delivery;

(E) the capacity of such applicant to serve eligible children with—

(i) curricula that are based on scientifically valid research, that are developmentally appropriate, and that promote the school readiness of children participating in the program involved; and

(ii) teaching practices that are based, as appropriate, on scientifically valid research, that are developmentally appro-

priate, and that promote the school readiness of children participating in the program involved;

(F) the plan of such applicant to meet standards described in section 9836a(a)(1) of this title, with particular attention to the standards described in subparagraphs (A) and (B) of such section;

(G) the proposed budget of the applicant and plan of such applicant to maintain strong fiscal controls and cost-effective fiscal management;

(H) the plan of such applicant to coordinate and collaborate with other public or private entities providing early childhood education and development programs and services for young children in the community involved, including—

(i) preschool programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(iii) State prekindergarten programs;

(iv) child care programs;

(v) the educational programs that the children in the Head Start program involved will enter at the age of compulsory school attendance; and

(vi) local entities, such as a public or school library, for—

(I) conducting reading readiness programs;

(II) developing innovative programs to excite children about the world of books, including providing fresh books in the Head Start classroom;

(III) assisting in literacy training for Head Start teachers; or

(IV) supporting parents and other caregivers in literacy efforts;

(I) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out, with public and private entities that are willing to commit resources to assist the Head Start program in meeting its program needs;

(J) the plan of such applicant—

(i) to facilitate the involvement of parents (including grandparents and kinship caregivers, as appropriate) of children participating in the proposed Head Start program, in activities (at home and, if practicable, at the location of the Head Start program) designed to help such parents become full partners in the education of their children;

(ii) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including transportation assistance, as appropriate;

(iii) to offer (directly or through referral to local entities, public and school libraries, and entities carrying out family support programs) to such parents—

(I) family literacy services; and

(II) parenting skills training;

(iv) to offer to parents of participating children substance abuse counseling (ei-

ther directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome;

(v) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

(I) training in basic child development (including cognitive, social, and emotional development);

(II) assistance in developing literacy and communication skills;

(III) opportunities to share experiences with other parents (including parent-mentor relationships);

(IV) regular in-home visitation;

(V) health services, including information on maternal depression; or

(VI) any other activity designed to help such parents become full partners in the education of their children;

(vi) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents, grandparents, and kinship caregivers, where applicable), in a manner and language that such parents can understand, to the extent practicable, about the benefits of parent involvement and about the activities described in this subparagraph in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities); and

(vii) to extend outreach to fathers (including father figures), in appropriate cases, in order to strengthen the role of those fathers in families, in the education of young children, and in the Head Start program, by working directly with the fathers through activities such as—

(I) in appropriate cases, including the fathers in home visits and providing opportunities for direct father-child interactions; and

(II) targeting increased male participation in the conduct of the program;

(K) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language, while making meaningful progress in attaining the knowledge, skills, abilities, and development described in section 9836a(a)(1)(B) of this title;

(L) the plan of such applicant to meet the diverse needs of the population served;

(M) the plan of such applicant who chooses to assist younger siblings of children who will participate in the Head Start program to obtain health services from other sources;

(N) the plan of such applicant to meet the needs of children with disabilities, including procedures to identify such children, procedures for referral of such children for evaluation to State or local agencies providing

services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and plans for collaboration with those State or local agencies;

(O) the plan of such applicant to meet the needs of homeless children, including transportation needs, and the needs of children in foster care; and

(P) other factors related to the requirements of this subchapter.

### **(3) Priority**

In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

### **(e) Prohibition against non-Indian Head Start agency receiving a grant for an Indian Head Start program**

#### **(1) In general**

Notwithstanding any other provision of law, except as provided in paragraph (2), under no condition may a non-Indian Head Start agency receive a grant to carry out an Indian Head Start program.

#### **(2) Exception**

In a community in which there is no Indian Head Start agency available for designation to carry out an Indian Head Start program, a non-Indian Head Start agency may receive a grant to carry out an Indian Head Start program but only until such time as an Indian Head Start agency in such community becomes available and is designated pursuant to this section.

### **(f) Interim provider**

If no agency in a community is designated under subsection (d), and there is no qualified applicant in the community, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is designated under subsection (d).

### **(g) Parent and community participation**

The Secretary shall require that the practice of significantly involving parents and community residents in the area affected by the program involved, in the selection of Head Start agencies, be continued.

### **(h) Community**

For purposes of this subchapter, a community may be a city, county, or multicounty or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) that provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

(Pub. L. 97-35, title VI, §641, Aug. 13, 1981, 95 Stat. 501; Pub. L. 98-558, title I, §104, Oct. 30,

1984, 98 Stat. 2878; Pub. L. 101-501, title I, §§ 107, 108, Nov. 3, 1990, 104 Stat. 1229, 1230; Pub. L. 102-401, § 2(e)(1), (f)-(h), Oct. 7, 1992, 106 Stat. 1957; Pub. L. 103-252, title I, § 107, May 18, 1994, 108 Stat. 629; Pub. L. 105-285, title I, § 107, Oct. 27, 1998, 112 Stat. 2712; Pub. L. 108-446, title III, § 305(l)(3), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 110-134, § 7, Dec. 12, 2007, 121 Stat. 1378; Pub. L. 114-95, title IX, § 9215(nn)(2), Dec. 10, 2015, 129 Stat. 2176.)

### Editorial Notes

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2)(H)(i), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(2)(H)(ii), (N), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§ 1431 et seq.) of chapter 33 of Title 20, Education. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

#### AMENDMENTS

Subsec. (d)(2)(H)(i). Pub. L. 114-95, § 9215(nn)(2)(A), redesignated cl. (ii) as (i), struck out “other” before “pre-school programs” and substituted “the Elementary and Secondary Education Act of 1965” for “that Act”, and struck out former cl. (i) which read as follows: “programs implementing grant agreements under the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.)”.

Subsec. (d)(2)(H)(ii) to (vii). Pub. L. 114-95, § 9215(nn)(2)(A)(ii), redesignated cls. (iii) to (vii) as (ii) to (vi), respectively. Former cl. (ii) redesignated (i).

Subsec. (d)(2)(J)(iii). Pub. L. 114-95, § 9215(nn)(2)(B), struck out “, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.)” after “local entities” in introductory provisions.

2007—Pub. L. 110-134 amended section generally. Prior to amendment, section related to authorization of and prerequisites for designation of Head Start agencies in subsec. (a), definition of community in subsec. (b), priority in administration of section provisions in subsec. (c), designation in community without entity entitled to priority and qualified applicants in subsec. (d), designation on interim basis in subsec. (e), involvement of parents and area residents in selection of agencies in subsec. (f), and priority for nonprofit agencies and applicants with demonstrated capacity in subsec. (g).

2004—Subsec. (d)(3). Pub. L. 108-446 substituted “U.S.C. 1431-1444” for “U.S.C. 1431-1445”.

1998—Subsec. (a). Pub. L. 105-285, § 107(1), inserted “or for-profit” after “nonprofit” and “(in consultation with the chief executive officer of the State involved, if such State expends non-Federal funds to carry out Head Start programs)” after “Secretary” in cl. (2).

Subsec. (b). Pub. L. 105-285, § 107(2), substituted “off-reservation area designated by an appropriate tribal government in consultation with the Secretary” for “area designated by the Bureau of Indian Affairs as near-reservation”.

Subsec. (c)(1). Pub. L. 105-285, § 107(3)(A), inserted “, in consultation with the chief executive officer of the State involved if such State expends non-Federal funds to carry out Head Start programs,” after “Secretary shall” and “or for-profit” after “nonprofit” and

substituted “determines that the agency involved fails to meet program and financial management requirements, performance standards described in section 9836a(a)(1) of this title, results-based performance measures developed by the Secretary under section 9836a(b) of this title, or other requirements established by the Secretary” for “makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary”.

Subsec. (c)(2). Pub. L. 105-285, § 107(3)(B), (C), inserted “, in consultation with the chief executive officer of the State if such State expends non-Federal funds to carry out Head Start programs,” after “Secretary shall” and realigned margins.

Subsec. (c)(3). Pub. L. 105-285, § 107(3)(C), realigned margins.

Subsec. (d). Pub. L. 105-285, § 107(4)(A), inserted in introductory provisions “In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to any qualified agency that functioned as a Head Start delegate agency in the community and carried out a Head Start program that the Secretary determines met or exceeded such performance standards and such results-based performance measures.”

Subsec. (d)(3). Pub. L. 105-285, § 107(4)(B), inserted “and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419)” after “(20 U.S.C. 2741 et seq.)”.

Subsec. (d)(4)(A). Pub. L. 105-285, § 107(4)(C)(i), inserted “(at home and in the center involved where practicable)” after “activities”.

Subsec. (d)(4)(D). Pub. L. 105-285, § 107(4)(C)(v), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (d)(4)(D)(iii). Pub. L. 105-285, § 107(4)(C)(ii)(I), inserted “or” at end.

Subsec. (d)(4)(D)(iv), (v). Pub. L. 105-285, § 107(4)(C)(ii)(II), (III), redesignated cl. (v) as (iv) and struck out former cl. (iv) which read as follows: “substance abuse counseling; or”.

Subsec. (d)(4)(E). Pub. L. 105-285, § 107(4)(C)(iv), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 105-285, § 107(4)(C)(iii), substituted “, (D), and (E)” for “and (D)”.

Subsec. (d)(4)(F). Pub. L. 105-285, § 107(4)(C)(iv), redesignated subpar. (E) as (F).

Subsec. (d)(7). Pub. L. 105-285, § 107(4)(D), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “the plan of such applicant to meet the needs of non-English language background children and their families in the community; and”.

Subsec. (d)(8) to (10). Pub. L. 105-285, § 107(4)(E)-(G), added pars. (8) and (10) and redesignated former par. (8) as (9).

Subsec. (e). Pub. L. 105-285, § 107(5), added subsec. (e) and struck out former subsec. (e) which read as follows: “If, in a community served by a Head Start program, there is no applicant qualified for designation as a Head Start agency to carry out such program, the Secretary may appoint an interim grantee to carry out such program until a qualified applicant is so designated.”

Subsec. (g). Pub. L. 105-285, § 107(6), added subsec. (g). 1994—Subsec. (b). Pub. L. 103-252, § 107(a), inserted “(including Indians in any area designated by the Bureau of Indian Affairs as near-reservation)” after “Indian reservation”.

Subsec. (c)(1). Pub. L. 103-252, § 107(b)(2), (3), (5), inserted “(subject to paragraph (2))” after “the provisions of this section”, struck out subpar. (A), inserted “the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.” after “unless”, and redesignated subpar. (B) as par. (2) and concluding provisions as par. (3).

Subsec. (c)(2). Pub. L. 103-252, § 107(b)(1), (3), (4), (6), redesignated par. (1)(B) as (2) and realigned margins, substituted “If” for “except that, if” and “paragraph (1)” for “subparagraph (A)”, and struck out former par. (2) which read as follows:

“(2)(A) The Secretary shall conduct a full review of each designated Head Start agency at least once during each 3-year period, and shall determine whether each agency meets program and fiscal requirements established by the Secretary.

“(B) The Secretary shall conduct a review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

“(C) The Secretary shall conduct followup reviews of Head Start agencies when appropriate.”

Subsec. (c)(3). Pub. L. 103-252, §107(b)(1), (5), redesignated concluding provisions of par. (1) as (3), substituted “this subsection” for “this paragraph”, and struck out former par. (3) which read as follows: “In carrying out a review of each Head Start agency under paragraph (2), the Secretary shall—

“(A) to the maximum extent practicable, carry out such review by using employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

“(B) ensure that an employee of the Department of Health and Human Services who is knowledgeable about Head Start programs supervises such review at the site of such agency;

“(C) measure the compliance of the programs of such agency with the performance standards in effect under section 9846(b) of this title; and

“(D) identify the types and conditions of facilities in which such programs are located.”

Subsec. (c)(4). Pub. L. 103-252, §107(b)(1), struck out par. (4) which read as follows: “The results of a review conducted under this subsection shall not be sufficient alone for the purpose of determining whether to continue, or to discontinue, providing funds to a particular Head Start agency.”

Subsec. (d). Pub. L. 103-252, §107(c)(1)–(3)(A), in introductory provisions substituted “If no entity in a community is entitled to the priority specified in subsection (c) of this section,” for “If there is no Head Start agency as described in subsection (c)(2) of this section, and no existing Head Start program serving a community,” and struck out “Any such designation shall be governed by the program and fiscal requirements, criteria, and standards applicable on September 1, 1983, to then existing Head Start agencies.” after first sentence and “subject to the preceding sentence” after “as a Head Start agency”.

Subsec. (d)(3). Pub. L. 103-252, §107(c)(3)(B), inserted “, including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.),” after “preschool programs”.

Subsec. (d)(4). Pub. L. 103-252, §107(c)(3)(C), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “the plan of such applicant to involve parents of children who will participate in the proposed Head Start program in appropriate educational services (in accordance with the performance standards in effect under section 9846(b) of this title or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential;”.

Subsec. (d)(7). Pub. L. 103-252, §107(c)(4), substituted “non-English language background children and their families” for “non-English language children” and inserted “and” after semicolon.

Subsec. (d)(8), (9). Pub. L. 103-252, §107(c)(5), (6), redesignated par. (9) as (8) and struck out former par. (8) which read as follows: “the plan of such applicant to provide (directly or through referral to educational services available in the community) parents of children who will participate in the proposed Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and”.

Subsecs. (f), (g). Pub. L. 103-252, §107(d), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: “The provisions of subsections (c), (d), and (e) of this section shall be applied by the Secretary

in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.”

1992—Subsec. (c)(1). Pub. L. 102-401, §2(e)(1), inserted at end “Notwithstanding any other provision of this paragraph, the Secretary shall not give such priority to any agency with respect to which financial assistance has been terminated, or an application for refunding has been denied, under this subchapter by the Secretary after affording such agency reasonable notice and opportunity for a full and fair hearing in accordance with section 9841(a)(3) of this title.”

Subsec. (c)(2). Pub. L. 102-401, §2(f), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (d)(8), (9). Pub. L. 102-401, §2(g), added pars. (8) and (9).

Subsec. (e). Pub. L. 102-401, §2(h)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102-401, §2(h)(1), substituted “(c), (d), and (e)” for “(c) and (d)”.

Subsecs. (f), (g). Pub. L. 102-401, §2(h)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

1990—Subsec. (c). Pub. L. 101-501, §107, designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A), added subpar. (B) and pars. (2) to (4), and struck out former par. (2) and last sentence which read as follows:

“(2) except that if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Secretary shall give priority in the designation of Head Start agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

The provisions of clause (2) shall apply only to agencies actually operating Head Start programs.”

Subsec. (d). Pub. L. 101-501, §108, inserted at end “In selecting from among qualified applicants for designation as a Head Start agency and subject to the preceding sentence, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—” and pars. (1) to (7).

1984—Subsec. (a). Pub. L. 98-558, §104(a), inserted “, within a community,” after “private nonprofit agency”.

Subsec. (c). Pub. L. 98-558, §104(b)(1), substituted “unless” for “, except that” in provisions preceding cl. (1).

Subsec. (c)(1). Pub. L. 98-558, §104(b)(2), (3), substituted “makes a finding” for “shall, before giving such priority, determine” and “fails to meet” for “meet”.

Subsec. (c)(2). Pub. L. 98-558, §104(b)(4), inserted “except that” before “if”.

Subsecs. (d) to (f). Pub. L. 98-558, §104(c), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

## Statutory Notes and Related Subsidiaries

### 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 Title 20, Education.

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-401, §2(e)(2), Oct. 7, 1992, 106 Stat. 1957, provided that: “The amendment made by paragraph (1)

[amending this section] shall apply only with respect to terminations of financial assistance, and denials of re-funding, occurring after July 29, 1992.’’

Amendment by section 2(f)–(h) of Pub. L. 102–401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, and amendment by section 2(e)(1) of Pub. L. 102–401 effective July 30, 1992, see section 4 of Pub. L. 102–401, set out as a note under section 9835 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as a note under section 8621 of this title.

#### HEAD START DESIGNATION RENEWAL SYSTEM

Pub. L. 116–159, div. D, title IV, § 4401, Oct. 1, 2020, 134 Stat. 743, provided that:

“Notwithstanding section 638 of the Head Start Act (42 U.S.C. 9833), if the Secretary of Health and Human Services—

“(1) is required to make a determination under paragraph (6) of section 641(c) of such Act (42 U.S.C. 9836a(c) [sic, probably should be “42 U.S.C. 9836(c)”) whether to renew the designation of a Head Start agency for which such determination under the schedule developed pursuant to paragraph (9)(C) of such section 641(c) is required to be made before December 31, 2020; and

“(2) cannot make such determination in accordance with such schedule because the Secretary lacks any information described in any of subparagraphs (A) through (E) of section 641(c)(1) of such Act required for the purpose of making such determination; then before December 31, 2020, the Secretary shall extend for not more than 2 years the 5-year period otherwise applicable to the designation of such Head Start agency under such Act [42 U.S.C. 9831 et seq.]”

### § 9836a. Standards; monitoring of Head Start agencies and programs

#### (a) Standards

##### (1) Content of standards

The Secretary shall modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs under this subchapter, including—

(A) performance standards with respect to services required to be provided, including health, parental involvement, nutritional, and social services, transition activities described in section 9837a of this title, and other services;

(B) scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework to ensure that the children participating in the program, at a minimum, develop and demonstrate—

(i) language knowledge and skills, including oral language and listening comprehension;

(ii) literacy knowledge and skills, including phonological awareness, print awareness and skills, and alphabetic knowledge;

(iii) mathematics knowledge and skills;

(iv) science knowledge and skills;

(v) cognitive abilities related to academic achievement and child development;

(vi) approaches to learning related to child development and early learning;

(vii) social and emotional development related to early learning, school success, and social problemsolving;

(viii) abilities in creative arts;

(ix) physical development; and

(x) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in clauses (i) through (ix), including progress made through the use of culturally and linguistically appropriate instructional services;

(C) administrative and financial management standards;

(D) standards relating to the condition and location of facilities (including indoor air quality assessment standards, where appropriate) for such agencies, and programs, including regulations that require that the facilities used by Head Start agencies (including Early Head Start agencies and any delegate agencies) for regularly scheduled center-based and combination program option classroom activities—

(i) shall meet or exceed State and local requirements concerning licensing for such facilities; and

(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance, unless State or local laws prohibit such access; and

(E) such other standards as the Secretary finds to be appropriate.

#### (2) Considerations regarding standards

In developing any modifications to standards required under paragraph (1), the Secretary shall—

(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically and culturally appropriate services to non-English speaking children and their families), administration, and financial management, and with persons with experience in the operation of Head Start programs;

(B) take into consideration—

(i) past experience with use of the standards in effect under this subchapter on December 12, 2007;

(ii) changes over the period since October 27, 1998, in the circumstances and problems typically facing children and families served by Head Start agencies;

(iii) recommendations from the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences, consistent with section 9844(j) of this title;

(iv) developments concerning research-based practices with respect to early childhood education and development, children with disabilities, homeless children, children in foster care, and family services, and best practices with respect to program administration and financial management;

(v) projected needs of an expanding Head Start program;

(vi) guidelines and standards that promote child health services and physical de-

velopment, including participation in outdoor activity that supports children's motor development and overall health and nutrition;

(vii) changes in the characteristics of the population of children who are eligible to participate in Head Start programs, including country of origin, language background, and family structure of such children, and changes in the population and number of such children who are in foster care or are homeless children;

(viii) mechanisms to ensure that children participating in Head Start programs make a successful transition to the schools that the children will be attending;

(ix) the need for Head Start agencies to maintain regular communications with parents, including conducting periodic meetings to discuss the progress of individual children in Head Start programs; and

(x) the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations;

(C)(i) review and revise as necessary the standards in effect under this subsection; and

(ii) ensure that any such revisions in the standards will not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on December 12, 2007; and

(D) consult with Indian tribes, including Alaska Natives, experts in Indian, including Alaska Native, early childhood education and development, linguists, and the National Indian Head Start Directors Association on the review and promulgation of standards under paragraph (1) (including standards for language acquisition and school readiness).

### **(3) Standards relating to obligations to delegate agencies**

In developing any modifications to standards under paragraph (1), the Secretary shall describe the obligations of a Head Start agency to a delegate agency to which the Head Start agency has delegated responsibility for providing services under this subchapter.

## **(b) Measures**

### **(1) In general**

The Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of early childhood education and development, family services, and program management, shall use the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences and other relevant research to inform, revise, and provide guidance to Head Start agencies for utilizing, scientifically based measures that support, as appropriate—

(A) classroom instructional practices;

(B) identification of children with special needs;

(C) program evaluation; and

(D) administrative and financial management practices.

### **(2) Characteristics of measures**

The measures under this subsection shall—

(A) be developmentally, linguistically, and culturally appropriate for the population served;

(B) be reviewed periodically, based on advances in the science of early childhood development;

(C) be consistent with relevant, nationally recognized professional and technical standards related to the assessment of young children;

(D) be valid and reliable in the language in which they are administered;

(E) be administered by staff with appropriate training for such administration;

(F) provide for appropriate accommodations for children with disabilities and children who are limited English proficient;

(G) be high-quality research-based measures that have been demonstrated to assist with the purposes for which they were devised; and

(H) be adaptable, as appropriate, for use in the self-assessment of Head Start agencies, including in the evaluation of administrative and financial management practices.

### **(3) Use of measures; limitations on use**

#### **(A) Use**

The measures shall be designed, as appropriate, for the purpose of—

(i) helping to develop the skills, knowledge, abilities, and development described in subsection (a)(1)(B) of children participating in Head Start programs, with an emphasis on measuring skills that scientifically valid research has demonstrated are related to children's school readiness and later success in school;

(ii) improving classroom practices, including reviewing children's strengths and weaknesses and individualizing instruction to better meet the needs of the children involved;

(iii) identifying the special needs of children; and

(iv) improving overall program performance in order to help programs identify problem areas that may require additional training and technical assistance resources.

#### **(B) Limitations**

Such measures shall not be used to exclude children from Head Start programs.

### **(4) Confidentiality**

#### **(A) In general**

The Secretary, through regulation, shall ensure the confidentiality of any personally identifiable data, information, and records collected or maintained under this subchapter by the Secretary and any Head Start agency. Such regulations shall provide the policies, protections, and rights equivalent to those provided to a parent, student, or educational agency or institution under section 1232g of title 20.

**(B) Prohibition on nationwide database**

Nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable data, information, or records on children resulting from the use of measures under this subsection.

**(5) Special rule****(A) Prohibition**

The use of assessment items and data on any assessment authorized under this subchapter by any agent of the Federal Government is prohibited for the purposes of—

(i) ranking, comparing, or otherwise evaluating individual children for purposes other than research, training, or technical assistance; and

(ii) providing rewards or sanctions for individual children or teachers.

**(B) Results**

The Secretary shall not use the results of a single assessment as the sole method for assessing program effectiveness or making agency funding determinations at the national, regional, or local level under this subchapter.

**(c) Monitoring of local agencies and programs****(1) In general**

To determine whether Head Start agencies meet standards described in subsection (a)(1) established under this subchapter with respect to program, administrative, financial management, and other requirements, and in order to help the programs identify areas for improvement and areas of strength as part of their ongoing self-assessment process, the Secretary shall conduct the following reviews of Head Start agencies, including the Head Start programs operated by such agencies:

(A) A full review, including the use of a risk-based assessment approach, of each such agency at least once during each 3-year period.

(B) A review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

(C) Followup reviews, including—

(i) return visits to Head Start agencies with 1 or more findings of deficiencies, not later than 6 months after the Secretary provides notification of such findings, or not later than 12 months after such notification if the Secretary determines that additional time is necessary for an agency to address such a deficiency prior to the review; and

(ii) a review of Head Start agencies with significant areas of noncompliance.

(D) Other reviews, including unannounced site inspections of Head Start centers, as appropriate.

**(2) Conduct of reviews**

The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

(A) are conducted by review teams that—

(i) include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, individuals who are knowledgeable about—

(I) other early childhood education and development programs, personnel management, financial accountability, and systems development and monitoring; and

(II) the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities, homeless children, children in foster care, and limited English proficient children) and their families;

(ii) include, to the maximum extent practicable, current or former employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

(iii) shall receive periodic training to ensure quality and consistency across reviews;

(B) include as part of the reviews, a review and assessment of program strengths and areas in need of improvement;

(C) include as part of the reviews, a review and assessment of whether programs have adequately addressed population and community needs (including those of limited English proficient children and children of migrant or seasonal farmworker families);

(D) include as part of the reviews, an assessment of the extent to which the programs address the communitywide strategic planning and needs assessment described in section 9835(g)(1)(C) of this title;

(E) include information on the innovative and effective efforts of the Head Start agencies to collaborate with the entities providing early childhood and development services or programs in the community and any barriers to such collaboration that the agencies encounter;

(F) include as part of the reviews, a valid and reliable research-based observational instrument, implemented by qualified individuals with demonstrated reliability, that assesses classroom quality, including assessing multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement;

(G) are conducted in a manner that evaluates program performance, quality, and overall operations with consistency and objectivity, are based on a transparent and reliable system of review, and are conducted in a manner that includes periodic interrater reliability checks, to ensure quality and consistency, across and within regions, of the reviews and of noncompliance and deficiency determinations;

(H) in the case of reviews of Early Head Start agencies and programs, are conducted by a review team that includes individuals who are knowledgeable about the development of infants and toddlers;

(I) include as part of the reviews a protocol for fiscal management that shall be used to assess compliance with program requirements for—

- (i) using Federal funds appropriately;
- (ii) using Federal funds specifically to purchase property (consistent with section 9839(f) of this title) and to compensate personnel;
- (iii) securing and using qualified financial officer support; and
- (iv) reporting financial information and implementing appropriate internal controls to safeguard Federal funds;

(J) include as part of the reviews of the programs, a review and assessment of whether the programs are in conformity with the eligibility requirements under section 9840(a)(1) of this title, including regulations promulgated under such section and whether the programs have met the requirements for the outreach and enrollment policies and procedures, and selection criteria, in such section, for the participation of children in programs assisted under this subchapter;

(K) include as part of the reviews, a review and assessment of whether agencies have adequately addressed the needs of children with disabilities, including whether the agencies involved have met the 10 percent minimum enrollment requirement specified in section 9835(d) of this title and whether the agencies have made sufficient efforts to collaborate with State and local agencies providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

(L) include as part of the reviews, a review and assessment of child outcomes and performance as they relate to agency-determined school readiness goals described in subsection (g)(2), consistent with subsection (b)(5).

### **(3) Standards relating to obligations to delegate agencies**

In conducting a review described in paragraph (1)(A) of a Head Start agency, the Secretary shall determine whether the agency complies with the obligations described in subsection (a)(3). The Secretary shall consider such compliance in determining whether to renew financial assistance to the Head Start agency under this subchapter.

### **(4) Use of review findings**

The findings of a review described in paragraph (1) of a Head Start agency shall, at a minimum—

- (A) be presented to the agency in a timely, transparent, and uniform manner that conveys information of program strengths and weaknesses and assists with program improvement; and
- (B) be used by the agency to inform the development and implementation of its plan for training and technical assistance.

### **(d) Evaluations and corrective action for delegate agencies**

#### **(1) Procedures**

Each Head Start agency shall establish, subject to paragraph (4), procedures relating to its delegate agencies, including—

- (A) procedures for evaluating delegate agencies;

- (B) procedures for defunding delegate agencies; and

- (C) procedures for a delegate agency to appeal a defunding decision.

### **(2) Evaluation**

Each Head Start agency—

- (A) shall evaluate its delegate agencies using the procedures established under this subsection; and

- (B) shall inform the delegate agencies of the deficiencies identified through the evaluation that are required to be corrected.

### **(3) Remedies to ensure corrective actions**

In the event that the Head Start agency identifies a deficiency for a delegate agency through the evaluation, the Head Start agency shall take action, which may include—

- (A) initiating procedures to terminate the designation of the agency unless the agency corrects the deficiency;

- (B) conducting monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

- (C) releasing funds to such delegate agency—

- (i) only as reimbursements except that, upon receiving a request from the delegate agency accompanied by assurances satisfactory to the Head Start agency that the funds will be appropriately safeguarded, the Head Start agency shall provide to the delegate agency a working capital advance in an amount sufficient to cover the estimated expenses involved during an agreed upon disbursing cycle; and

- (ii) only if there is continuity of services.

### **(4) Termination**

The Head Start agency may not terminate a delegate agency's contract or reduce a delegate agency's service area without showing cause or demonstrating the cost-effectiveness of such a decision.

### **(5) Rule of construction**

Nothing in this subsection shall be construed to limit the powers, duties, or functions of the Secretary with respect to Head Start agencies or delegate agencies that receive financial assistance under this subchapter.

### **(e) Corrective action for Head Start agencies**

#### **(1) Determination**

If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to this subchapter fails to meet the standards described in subsection (a)(1) or fails to address the communitywide strategic planning and needs assessment, the Secretary shall—

- (A) inform the agency of the deficiencies that shall be corrected and identify the assistance to be provided consistent with paragraph (3);

- (B) with respect to each identified deficiency, require the agency—

- (i) to correct the deficiency immediately, if the Secretary finds that the de-

iciency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

## **(2) Quality improvement plan**

### **(A) Agency and program responsibilities**

To retain a designation as a Head Start agency under this subchapter, or in the case of a Head Start program to continue to receive funds from such agency, a Head Start agency that is the subject of a determination described in paragraph (1), or a Head Start program that is determined to have a deficiency under subsection (d)(2) (excluding an agency required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)) shall—

(i) develop in a timely manner, a quality improvement plan that shall be subject to the approval of the Secretary, or in the case of a program, the sponsoring agency, and that shall specify—

(I) the deficiencies to be corrected;

(II) the actions to be taken to correct such deficiencies; and

(III) the timetable for accomplishment of the corrective actions specified; and

(ii) correct each deficiency identified, not later than the date for correction of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency or Head Start program that is determined to have a deficiency received notice of the determination and of the specific deficiency to be corrected).

### **(B) Secretarial responsibility**

Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

### **(C) Agency responsibility**

Not later than 30 days after receiving from a Head Start program a proposed quality improvement plan pursuant to subparagraph (A), the Head Start agency involved shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

## **(3) Training and technical assistance**

The Secretary shall provide training and technical assistance to Head Start agencies

and programs with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

## **(f) Summaries of monitoring outcomes**

### **(1) In general**

Not later than 120 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (e), during such fiscal year.

### **(2) Report availability**

Such report shall be made widely available to—

(A) parents with children receiving assistance under this subchapter—

(i) in an understandable and uniform format; and

(ii) to the extent practicable, in a language that the parents understand; and

(B) the public through means such as—

(i) distribution through public agencies; and

(ii) posting such information on the Internet.

### **(3) Report information**

Such report shall contain detailed data—

(A) on compliance with specific standards and measures; and

(B) sufficient to allow Head Start agencies to use such data to improve the quality of their programs.

## **(g) Self-assessments**

### **(1) In general**

Not less frequently than once each program year, with the consultation and participation of policy councils and, as applicable, policy committees and, as appropriate, other community members, each Head Start agency, and each delegate agency, that receives financial assistance under this subchapter shall conduct a comprehensive self-assessment of its effectiveness and progress in meeting program goals and objectives and in implementing and complying with standards described in subsection (a)(1).

## **(2) Goals, reports, and improvement plans**

### **(A) Goals**

An agency conducting a self-assessment shall establish agency-determined program goals for improving the school readiness of children participating in a program under this subchapter, including school readiness goals that are aligned with the Head Start Child Outcomes Framework, State early learning standards as appropriate, and requirements and expectations of the schools the children will be attending.

### **(B) Improvement plan**

The agency shall develop, and submit to the Secretary a report containing, an improvement plan approved by the governing

body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

**(3) Ongoing monitoring**

Each Head Start agency (including each Early Head Start agency) and each delegate agency shall establish and implement procedures for the ongoing monitoring of their respective programs, to ensure that the operations of the programs work toward meeting program goals and objectives and standards described in subsection (a)(1).

**(h) Reduction of grants and redistribution of funds in cases of underenrollment**

**(1) Definitions**

In this subsection:

**(A) Actual enrollment**

The term “actual enrollment” means, with respect to the program of a Head Start agency, the actual number of children enrolled in such program and reported by the agency (as required in paragraph (2)) in a given month.

**(B) Base grant**

The term “base grant” has the meaning given the term in section 9835(a)(7) of this title.

**(C) Funded enrollment**

The term “funded enrollment” means, with respect to the program of a Head Start agency in a fiscal year, the number of children that the agency is funded to serve through a grant for the program during such fiscal year, as indicated in the grant agreement.

**(2) Enrollment reporting requirement**

Each entity carrying out a Head Start program shall report on a monthly basis to the Secretary and the relevant Head Start agency—

(A) the actual enrollment in such program; and

(B) if such actual enrollment is less than the funded enrollment, any apparent reason for such enrollment shortfall.

**(3) Secretarial review and plan**

The Secretary shall—

(A) on a semiannual basis, determine which Head Start agencies are operating with an actual enrollment that is less than the funded enrollment based on not less than 4 consecutive months of data;

(B) for each such Head Start agency operating a program with an actual enrollment that is less than its funded enrollment, as determined under subparagraph (A), develop, in collaboration with such agency, a plan and timetable for reducing or eliminating underenrollment taking into consideration—

(i) the quality and extent of the outreach, recruitment, and communitywide strategic planning and needs assessment conducted by such agency;

(ii) changing demographics, mobility of populations, and the identification of new underserved low-income populations;

(iii) facilities-related issues that may impact enrollment;

(iv) the ability to provide full-working-day programs, where needed, through funds made available under this subchapter or through collaboration with entities carrying out other early childhood education and development programs, or programs with other funding sources (where available);

(v) the availability and use by families of other early childhood education and development options in the community served; and

(vi) agency management procedures that may impact enrollment; and

(C) provide timely and ongoing technical assistance to each agency described in subparagraph (B) for the purpose of assisting the Head Start agency to implement the plan described in such subparagraph.

**(4) Implementation**

Upon receipt of the technical assistance described in paragraph (3)(C), a Head Start agency shall immediately implement the plan described in paragraph (3)(B). The Secretary shall, where determined appropriate, continue to provide technical assistance to such agency.

**(5) Secretarial review and adjustment for chronic underenrollment**

**(A) In general**

If, after receiving technical assistance and developing and implementing the plan as described in paragraphs (3) and (4) for 12 months, a Head Start agency is operating a program with an actual enrollment that is less than 97 percent of its funded enrollment, the Secretary may—

(i) designate such agency as chronically underenrolled; and

(ii) recapture, withhold, or reduce the base grant for the program by a percentage equal to the percentage difference between funded enrollment and actual enrollment for the program for the most recent year for which the agency is determined to be underenrolled under paragraph (3)(A).

**(B) Waiver or limitation of reductions**

The Secretary may, as appropriate, waive or reduce the percentage recapturing, withholding, or reduction otherwise required by subparagraph (A), if, after the implementation of the plan described in paragraph (3)(B), the Secretary finds that—

(i) the causes of the enrollment shortfall, or a portion of the shortfall, are related to the agency’s serving significant numbers of highly mobile children, or are other significant causes as determined by the Secretary;

(ii) the shortfall can reasonably be expected to be temporary; or

(iii) the number of slots allotted to the agency is small enough that underenrollment does not create a significant shortfall.

**(6) Redistribution of funds****(A) In general**

Funds held by the Secretary as a result of recapturing, withholding, or reducing a base grant in a fiscal year shall be redistributed by the end of the following fiscal year as follows:

**(i) Indian Head Start programs**

If such funds are derived from an Indian Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Indian Head Start programs.

**(ii) Migrant and seasonal Head Start programs**

If such funds are derived from a migrant or seasonal Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more programs of the type from which such funds are derived.

**(iii) Early Head Start programs**

If such funds are derived from an Early Head Start program in a State, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Early Head Start programs in that State. If such funds are derived from an Indian Early Head Start program, then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Indian Early Head Start programs.

**(iv) Other Head Start programs**

If such funds are derived from a Head Start program in a State (excluding programs described in clauses (i) through (iii)), then such funds shall be redistributed to increase enrollment by the end of the following fiscal year in 1 or more Head Start programs (excluding programs described in clauses (i) through (iii)) that are carried out in such State.

**(B) Adjustment to funded enrollment**

The Secretary shall adjust as necessary the requirements relating to funded enrollment indicated in the grant agreement of a Head Start agency receiving redistributed funds under this paragraph.

(Pub. L. 97–35, title VI, § 641A, as added Pub. L. 103–252, title I, § 108, May 18, 1994, 108 Stat. 631; amended Pub. L. 105–285, title I, § 108, Oct. 27, 1998, 112 Stat. 2713; Pub. L. 110–134, § 8, Dec. 12, 2007, 121 Stat. 1385.)

**Editorial Notes****REFERENCES IN TEXT**

The Individuals with Disabilities Education Act, referred to in subsec. (c)(2)(K), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§ 1431 et seq.) of chapter 33 of Title 20, Education. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

**AMENDMENTS**

2007—Pub. L. 110–134 amended section generally. Prior to amendment, section related to, in subsec. (a), qual-

ity standards, in subsec. (b), results-based performance measures, in subsec. (c), monitoring of local agencies and programs, in subsec. (d), corrective action and termination, and, in subsec. (e), summaries of monitoring outcomes.

1998—Subsec. (a)(1). Pub. L. 105–285, § 108(a)(1)(A), inserted “, including minimum levels of overall accomplishment,” after “regulation standards” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 105–285, § 108(a)(1)(B), struck out “education,” after “including health.”

Subsec. (a)(1)(B) to (E). Pub. L. 105–285, § 108(a)(1)(C), (D), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (a)(2). Pub. L. 105–285, § 108(a)(2), (3), redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: “The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).”

Subsec. (a)(2)(B)(iii). Pub. L. 105–285, § 108(a)(4)(A), substituted “early childhood education and” for “child”.

Subsec. (a)(2)(C)(i). Pub. L. 105–285, § 108(a)(4)(B)(i), struck out “not later than 1 year after May 18, 1994,” before “review” and substituted “this subsection; and” for “section 9846(b) of this title on the day before May 18, 1994; and”.

Subsec. (a)(2)(C)(ii). Pub. L. 105–285, § 108(a)(4)(B)(ii), substituted “October 27, 1998” for “November 2, 1978”.

Subsec. (a)(3). Pub. L. 105–285, § 108(a)(5), substituted “to a delegate agency” for “to an agency (referred to in this subchapter as the ‘delegate agency’)”.

Pub. L. 105–285, § 108(a)(3), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 105–285, § 108(a)(3), redesignated par. (4) as (3).

Subsec. (b). Pub. L. 105–285, § 108(b)(1), inserted “Results-based” in heading.

Subsec. (b)(1). Pub. L. 105–285, § 108(b)(2), substituted “The Secretary” for “Not later than 1 year after May 18, 1994, the Secretary”, “early childhood education and” for “child”, and “results-based performance measures” for “performance measures” and inserted “, and the impact of the services provided through the programs to children and their families” before “(referred)”.

Subsec. (b)(2). Pub. L. 105–285, § 108(b)(3)(A), (B), (F), substituted “Characteristics” for “Design” in heading and “shall—” for “shall be designed—” in introductory provisions and inserted concluding provisions.

Subsec. (b)(2)(A). Pub. L. 105–285, § 108(b)(3)(C), substituted “be used to assess the impact of” for “to assess”.

Subsec. (b)(2)(B). Pub. L. 105–285, § 108(b)(3)(D), substituted “be adaptable” for “to be adaptable” and “, peer review, and program evaluation” for “and peer review” and inserted “, not later than July 1, 1999” before semicolon.

Subsec. (b)(2)(C). Pub. L. 105–285, § 108(b)(3)(E), inserted “be developed” before “for other”.

Subsec. (b)(3)(A). Pub. L. 105–285, § 108(b)(4), substituted “, regionally, and locally” for “and by region”.

Subsec. (b)(4), (5). Pub. L. 105–285, § 108(b)(5), added pars. (4) and (5).

Subsec. (c)(1). Pub. L. 105–285, § 108(c)(1), inserted “and results-based performance measures developed by the Secretary under subsection (b) of this section” after “standards established under this subchapter”.

Subsec. (c)(2)(B). Pub. L. 105–285, § 108(c)(2)(A), struck out “and” at end.

Subsec. (c)(2)(C). Pub. L. 105–285, § 108(c)(2)(B), inserted “(including children with disabilities)” after “eligible children” and substituted semicolon for period at end.

Subsec. (c)(2)(D), (E). Pub. L. 105–285, § 108(c)(2)(C), added subpars. (D) and (E).

Subsec. (d)(1). Pub. L. 105–285, § 108(d)(1)(A), inserted “or results-based performance measures developed by

the Secretary under subsection (b) of this section” after “subsection (a) of this section” in introductory provisions.

Subsec. (d)(1)(B). Pub. L. 105-285, §108(d)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “with respect to each identified deficiency, require the agency—

“(i) to correct the deficiency immediately; or

“(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and”.

Subsec. (d)(2)(A). Pub. L. 105-285, §108(d)(2), substituted “required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)” for “able to correct a deficiency immediately” in introductory provisions.

Subsec. (e). Pub. L. 105-285, §108(e), inserted at end “Such report shall be widely disseminated and available for public review in both written and electronic formats.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

### § 9837. Powers and functions of Head Start agencies

#### (a) Authority

To be designated as a Head Start agency under this subchapter, an agency shall have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources that may be used in support of a Head Start program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) organized in accordance with this subchapter, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency shall also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers shall include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

#### (b) Family and community involvement; family services

To be so designated, a Head Start agency shall, at a minimum, do all the following to involve and serve families and communities:

(1) Provide for the regular and direct participation of parents and community residents in the implementation of the Head Start program, including decisions that influence the character of such program, consistent with paragraphs (2)(D) and (3)(C) of subsection (c).

(2) Seek the involvement of parents, community residents, and local business in the design and implementation of the program.

(3) Establish effective procedures—

(A) to facilitate and seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children; and

(B) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including transportation assistance as appropriate.

(4) Offer (directly or through referral to local entities, public and school libraries, and entities carrying out family support programs) to such parents—

(A) family literacy services; and

(B) parenting skills training.

(5) Offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome.

(6) At the option of such agency, offer (directly or through referral to local entities) to such parents—

(A) training in basic child development (including cognitive, social, and emotional development);

(B) assistance in developing literacy and communication skills;

(C) opportunities to share experiences with other parents (including parent-mentor relationships);

(D) health services, including information on maternal depression;

(E) regular in-home visitation; or

(F) any other activity designed to help such parents become full partners in the education of their children.

(7) Provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents, grandparents, and kinship caregivers, where applicable), in a manner and language that such parents can understand (to the extent practicable), about the benefits of parent involvement and about the activities described in this subsection in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities).

(8) Consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.

(9) Perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers.

(10)(A) Inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support.

(B) Refer eligible parents to the child support offices of State and local governments.

(11) Provide to parents of limited English proficient children outreach and information,

in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand.

(12) Provide technical and other support needed to enable parents and community residents to secure, on their own behalf, available assistance from public and private sources.

(13) Promote the continued involvement of the parents (including foster parents, grandparents, and kinship caregivers, as appropriate) of children that participate in Head Start programs in the education of their children upon transition of their children to school, by working with the local educational agency—

(A) to provide training to the parents—

(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

(ii) to enable the parents—

(I) to understand and work with schools in order to communicate with teachers and other school personnel;

(II) to support the schoolwork of their children; and

(III) to participate as appropriate in decisions relating to the education of their children; and

(B) to take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

(14) Establish effective procedures for timely referral of children with disabilities to the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and collaboration with that agency, consistent with section 9835(d)(3) of this title.

(15) Establish effective procedures for providing necessary early intervening services to children with disabilities prior to an eligibility determination by the State or local agency responsible for providing services under section 619 or part C of such Act, consistent with section 9835(d)(2) of this title.

(16) At the option of the Head Start agency, partner with an institution of higher education and a nonprofit organization to provide college students with the opportunity to serve as mentors or reading partners for Head Start participants.

### **(c) Program governance**

Upon receiving designation as a Head Start agency, the agency shall establish and maintain a formal structure for program governance, for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation. Such structure shall include the following:

#### **(1) Governing body**

##### **(A) In general**

The governing body shall have legal and fiscal responsibility for the Head Start agency.

##### **(B) Composition**

The governing body shall be composed as follows:

(i) Not less than 1 member shall have a background and expertise in fiscal management or accounting.

(ii) Not less than 1 member shall have a background and expertise in early childhood education and development.

(iii) Not less than 1 member shall be a licensed attorney familiar with issues that come before the governing body.

(iv) Additional members shall—

(I) reflect the community to be served and include parents of children who are currently, or were formerly, enrolled in Head Start programs; and

(II) are selected for their expertise in education, business administration, or community affairs.

(v) Exceptions shall be made to the requirements of clauses (i) through (iv) for members of a governing body when those members oversee a public entity and are selected to their positions with the public entity by public election or political appointment.

(vi) If a person described in clause (i), (ii), or (iii) is not available to serve as a member of the governing body, the governing body shall use a consultant, or an other individual with relevant expertise, with the qualifications described in that clause, who shall work directly with the governing body.

### **(C) Conflict of interest**

Members of the governing body shall—

(i) not have a financial conflict of interest with the Head Start agency (including any delegate agency);

(ii) not receive compensation for serving on the governing body or for providing services to the Head Start agency;

(iii) not be employed, nor shall members of their immediate family be employed, by the Head Start agency (including any delegate agency); and

(iv) operate as an entity independent of staff employed by the Head Start agency.

### **(D) Exception**

If an individual holds a position as a result of public election or political appointment, and such position carries with it a concurrent appointment to serve as a member of a Head Start agency governing body, and such individual has any conflict of interest described in clause (ii) or (iii) of subparagraph (C)—

(i) such individual shall not be prohibited from serving on such body and the Head Start agency shall report such conflict to the Secretary; and

(ii) if the position held as a result of public election or political appointment provides compensation, such individual shall not be prohibited from receiving such compensation.

### **(E) Responsibilities**

The governing body shall—

(i) have legal and fiscal responsibility for administering and overseeing programs under this subchapter, including the safeguarding of Federal funds;

(ii) adopt practices that assure active, independent, and informed governance of the Head Start agency, including practices consistent with subsection (d)(1), and fully participate in the development, planning, and evaluation of the Head Start programs involved;

(iii) be responsible for ensuring compliance with Federal laws (including regulations) and applicable State, tribal, and local laws (including regulations); and

(iv) be responsible for other activities, including—

(I) selecting delegate agencies and the service areas for such agencies;

(II) establishing procedures and criteria for recruitment, selection, and enrollment of children;

(III) reviewing all applications for funding and amendments to applications for funding for programs under this subchapter;

(IV) establishing procedures and guidelines for accessing and collecting information described in subsection (d)(2);

(V) reviewing and approving all major policies of the agency, including—

(aa) the annual self-assessment and financial audit;

(bb) such agency's progress in carrying out the programmatic and fiscal provisions in such agency's grant application, including implementation of corrective actions; and

(cc) personnel policies of such agencies regarding the hiring, evaluation, termination, and compensation of agency employees;

(VI) developing procedures for how members of the policy council are selected, consistent with paragraph (2)(B);

(VII) approving financial management, accounting, and reporting policies, and compliance with laws and regulations related to financial statements, including the—

(aa) approval of all major financial expenditures of the agency;

(bb) annual approval of the operating budget of the agency;

(cc) selection (except when a financial auditor is assigned by the State under State law or is assigned under local law) of independent financial auditors who shall report all critical accounting policies and practices to the governing body; and

(dd) monitoring of the agency's actions to correct any audit findings and of other action necessary to comply with applicable laws (including regulations) governing financial statement and accounting practices;

(VIII) reviewing results from monitoring conducted under section 9836a(c) of this title, including appropriate followup activities;

(IX) approving personnel policies and procedures, including policies and procedures regarding the hiring, evaluation,

compensation, and termination of the Executive Director, Head Start Director, Director of Human Resources, Chief Fiscal Officer, and any other person in an equivalent position with the agency;

(X) establishing, adopting, and periodically updating written standards of conduct that establish standards and formal procedures for disclosing, addressing, and resolving—

(aa) any conflict of interest, and any appearance of a conflict of interest, by members of the governing body, officers and employees of the Head Start agency, and consultants and agents who provide services or furnish goods to the Head Start agency; and

(bb) complaints, including investigations, when appropriate; and

(XI) to the extent practicable and appropriate, at the discretion of the governing body, establishing advisory committees to oversee key responsibilities related to program governance and improvement of the Head Start program involved.

## **(2) Policy council**

### **(A) In general**

Consistent with paragraph (1)(E), each Head Start agency shall have a policy council responsible for the direction of the Head Start program, including program design and operation, and long- and short-term planning goals and objectives, taking into account the annual communitywide strategic planning and needs assessment and self-assessment.

### **(B) Composition and selection**

(i) The policy council shall be elected by the parents of children who are currently enrolled in the Head Start program of the Head Start agency.

(ii) The policy council shall be composed of—

(I) parents of children who are currently enrolled in the Head Start program of the Head Start agency (including any delegate agency), who shall constitute a majority of the members of the policy council; and

(II) members at large of the community served by the Head Start agency (including any delegate agency), who may include parents of children who were formerly enrolled in the Head Start program of the agency.

### **(C) Conflict of interest**

Members of the policy council shall—

(i) not have a conflict of interest with the Head Start agency (including any delegate agency); and

(ii) not receive compensation for serving on the policy council or for providing services to the Head Start agency.

### **(D) Responsibilities**

The policy council shall approve and submit to the governing body decisions about each of the following activities:

(i) Activities to support the active involvement of parents in supporting program operations, including policies to ensure that the Head Start agency is responsive to community and parent needs.

(ii) Program recruitment, selection, and enrollment priorities.

(iii) Applications for funding and amendments to applications for funding for programs under this subchapter, prior to submission of applications described in this clause.

(iv) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.

(v) Bylaws for the operation of the policy council.

(vi) Program personnel policies and decisions regarding the employment of program staff, consistent with paragraph (1)(E)(iv)(IX), including standards of conduct for program staff, contractors, and volunteers and criteria for the employment and dismissal of program staff.

(vii) Developing procedures for how members of the policy council of the Head Start agency will be elected.

(viii) Recommendations on the selection of delegate agencies and the service areas for such agencies.

### **(3) Policy committees**

Each delegate agency shall create a policy committee, which shall—

(A) be elected and composed of members, consistent with paragraph (2)(B) (with respect to delegate agencies);

(B) follow procedures to prohibit conflict of interest, consistent with clauses (i) and (ii) of paragraph (2)(C) (with respect to delegate agencies); and

(C) be responsible for approval and submission of decisions about activities as they relate to the delegate agency, consistent with paragraph (2)(D) (with respect to delegate agencies).

### **(d) Program governance administration**

#### **(1) Impasse policies**

The Secretary shall develop policies, procedures, and guidance for Head Start agencies concerning—

(A) the resolution of internal disputes, including any impasse in the governance of Head Start programs; and

(B) the facilitation of meaningful consultation and collaboration about decisions of the governing body and policy council.

#### **(2) Conduct of responsibilities**

Each Head Start agency shall ensure the sharing of accurate and regular information for use by the governing body and the policy council, about program planning, policies, and Head Start agency operations, including—

(A) monthly financial statements, including credit card expenditures;

(B) monthly program information summaries;

(C) program enrollment reports, including attendance reports for children whose care is

partially subsidized by another public agency;

(D) monthly reports of meals and snacks provided through programs of the Department of Agriculture;

(E) the financial audit;

(F) the annual self-assessment, including any findings related to such assessment;

(G) the communitywide strategic planning and needs assessment of the Head Start agency, including any applicable updates;

(H) communication and guidance from the Secretary; and

(I) the program information reports.

### **(3) Training and technical assistance**

Appropriate training and technical assistance shall be provided to the members of the governing body and the policy council to ensure that the members understand the information the members receive and can effectively oversee and participate in the programs of the Head Start agency.

### **(e) Collaboration and coordination**

To be so designated, a Head Start agency shall collaborate and coordinate with public and private entities, to the maximum extent practicable, to improve the availability and quality of services to Head Start children and families, including carrying out the following activities:

(1) Conduct outreach to schools in which children participating in the Head Start program will enroll following the program, local educational agencies, the local business community, community-based organizations, faith-based organizations, museums, and libraries to generate support and leverage the resources of the entire local community in order to improve school readiness.

(2)(A) In communities where both a public prekindergarten program and a Head Start program operate, collaborate and coordinate activities with the local educational agency or other public agency responsible for the operation of the prekindergarten program and providers of prekindergarten, including outreach activities to identify eligible children.

(B) With the permission of the parents of children enrolled in the Head Start program, regularly communicate with the schools in which the children will enroll following the program, to—

(i) share information about such children;

(ii) collaborate with the teachers in such schools regarding professional development and instructional strategies, as appropriate; and

(iii) ensure a smooth transition to school for such children.

(3) Coordinate activities and collaborate with programs under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.], the agencies responsible for administering section 5106a of this title and parts B and E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.], programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), programs under section 619 and part C of the Individuals with Disabilities Education

Act (20 U.S.C. 1419, 1431 et seq.), and other entities providing early childhood education and development programs or services, serving the children and families served by the Head Start agency.

(4) Take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in the Head Start program will enroll following the program, including—

(A) collaborating on the shared use of transportation and facilities, in appropriate cases;

(B) collaborating to reduce the duplication and enhance the efficiency of services while increasing the program participation of underserved populations of eligible children; and

(C) exchanging information on the provision of noneducational services to such children.

(5) Enter into a memorandum of understanding, not later than 1 year after December 12, 2007, with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the Head Start agency, that shall—

(A)(i) provide for a review of each of the activities described in clause (ii); and

(ii) include plans to coordinate, as appropriate, activities regarding—

(I) educational activities, curricular objectives, and instruction;

(II) public information dissemination and access to programs for families contacting the Head Start program or any of the preschool programs;

(III) selection priorities for eligible children to be served by programs;

(IV) service areas;

(V) staff training, including opportunities for joint staff training on topics such as academic content standards, instructional methods, curricula, and social and emotional development;

(VI) program technical assistance;

(VII) provision of additional services to meet the needs of working parents, as applicable;

(VIII) communications and parent outreach for smooth transitions to kindergarten as required in paragraphs (3) and (6) of section 9837a(a) of this title;

(IX) provision and use of facilities, transportation, and other program elements; and

(X) other elements mutually agreed to by the parties to such memorandum;

(B) be submitted to the Secretary and the State Director of Head Start Collaboration not later than 30 days after the parties enter into such memorandum, except that—

(i) where there is an absence of publicly funded preschool programs in the service area of a Head Start agency, this paragraph shall not apply; or

(ii) where the appropriate local entity responsible for managing the publicly funded preschool programs is unable or un-

willing to enter into such a memorandum, this paragraph shall not apply and the Head Start agency shall inform the Secretary and the State Director of Head Start Collaboration of such inability or unwillingness; and

(C) be revised periodically and renewed biennially by the parties to such memorandum, in alignment with the beginning of the school year.

**(f) Quality standards, curricula, and assessment**

To be so designated, each Head Start agency shall—

(1) take steps to ensure, to the maximum extent practicable, that children maintain the developmental and educational gains achieved in Head Start programs and build upon such gains in further schooling;

(2) establish a program with the standards set forth in section 9836a(a)(1) of this title, with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

(3) implement a research-based early childhood curriculum that—

(A) promotes young children's school readiness in the areas of language and cognitive development, early reading and mathematics skills, socio-emotional development, physical development, and approaches to learning;

(B) is based on scientifically valid research and has standardized training procedures and curriculum materials to support implementation;

(C) is comprehensive and linked to ongoing assessment, with developmental and learning goals and measurable objectives;

(D) is focused on improving the learning environment, teaching practices, family involvement, and child outcomes across all areas of development; and

(E) is aligned with the Head Start Child Outcomes Framework developed by the Secretary and, as appropriate, State early learning standards;

(4) implement effective interventions and support services that help promote the school readiness of children participating in the program;

(5) use research-based assessment methods that reflect the characteristics described in section 9836a(b)(2) of this title in order to support the educational instruction and school readiness of children in the program;

(6) use research-based developmental screening tools that have been demonstrated to be standardized, reliable, valid, and accurate for the child being assessed, to the maximum extent practicable, for the purpose of meeting the relevant standards described in section 9836a(a)(1) of this title;

(7) adopt, in consultation with experts in child development and with classroom teachers, an evaluation to assess whether classroom teachers have mastered the functions discussed in section 9843a(a)(1) of this title;

(8) use the information provided from the assessment conducted under section

9836a(c)(2)(F) of this title to inform professional development plans, as appropriate, that lead to improved teacher effectiveness;

(9) establish goals and measurable objectives for the provision of health, educational, nutritional, and social services provided under this subchapter and related to the program mission and to promote school readiness; and

(10) develop procedures for identifying children who are limited English proficient, and informing the parents of such children about the instructional services used to help children make progress towards acquiring the knowledge and skills described in section 9836a(a)(1)(B) of this title and acquisition of the English language.

**(g) Funded enrollment; waiting list**

Each Head Start agency shall enroll 100 percent of its funded enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations.

**(h) Technical assistance and training plan**

In order to receive funds under this subchapter, a Head Start agency shall develop an annual technical assistance and training plan. Such plan shall be based on the agency's self-assessment, the communitywide strategic planning and needs assessment, the needs of parents and children to be served by such agency, and the results of the reviews conducted under section 9836a(c) of this title.

**(i) Financial management**

In order to receive funds under this subchapter, a Head Start agency shall document strong fiscal controls, including the employment of well-qualified fiscal staff with a history of successful management of a public or private organization.

(Pub. L. 97-35, title VI, §642, Aug. 13, 1981, 95 Stat. 502; Pub. L. 99-425, title I, §103, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-501, title I, §109, Nov. 3, 1990, 104 Stat. 1231; Pub. L. 102-401, §2(i), (k)(3), Oct. 7, 1992, 106 Stat. 1957, 1959; Pub. L. 103-252, title I, §109, May 18, 1994, 108 Stat. 634; Pub. L. 105-285, title I, §109, Oct. 27, 1998, 112 Stat. 2716; Pub. L. 108-446, title III, §305(l)(4), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 110-134, §9, Dec. 12, 2007, 121 Stat. 1397; Pub. L. 114-95, title IX, §9215(nn)(3), Dec. 10, 2015, 129 Stat. 2177.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Individuals with Disabilities Education Act, referred to in subsecs. (b)(14), (15), and (e)(3), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (e)(3), 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 this title. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

The Social Security Act, referred to in subsec. (e)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Social Security Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (e)(3), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

**AMENDMENTS**

2015—Subsec. (b)(4). Pub. L. 114-95, §9215(nn)(3)(A), struck out “, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.)” after “local entities” in introductory provisions.

Subsec. (e)(3). Pub. L. 114-95, §9215(nn)(3)(B), struck out “Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.)” before “programs under section 619”.

2007—Pub. L. 110-134 amended section generally. Prior to amendment, section related to, in subsec. (a), receipt, administration, and transfer of funds, sponsorship of projects, and delegation of authority, in subsec. (b), participation of parents in decisionmaking and implementation of programs, in subsec. (c), coordination with other agencies, in subsec. (d), transition coordination with schools, and, in subsec. (e), assessment when hiring or evaluating classroom teachers.

2004—Subsec. (c). Pub. L. 108-446 substituted “1431-1444” for “1431-1445”.

1998—Subsec. (a). Pub. L. 105-285, §109(1), inserted “or for-profit” after “nonprofit”.

Subsec. (b)(6). Pub. L. 105-285, §109(2)(E), added par. (6). Former par. (6) redesignated (7).

Subsec. (b)(6)(D) to (F). Pub. L. 105-285, §109(2)(A), struck out subpar. (D) which read as follows: “substance abuse counseling;” and further directed the amendment of par. (6) “by redesignating subparagraphs (E) and (F) and subparagraphs (D) and (E), respectively”, which was executed by redesignating subpars. (E) and (F) as (D) and (E), respectively, to reflect the probable intent of Congress.

Subsec. (b)(7). Pub. L. 105-285, §109(2)(D), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 105-285, §109(2)(D), (F), redesignated par. (7) as (8) and substituted “paragraphs (4) through (7)” for “paragraphs (4) through (6)”. Former par. (8) redesignated (9).

Pub. L. 105-285, §109(2)(B), struck out “and” at end.

Subsec. (b)(9). Pub. L. 105-285, §109(2)(D), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 105-285, §109(2)(C), substituted “; and” for period at end.

Subsec. (b)(10). Pub. L. 105-285, §109(2)(D), redesignated par. (9) as (10).

Subsec. (b)(11). Pub. L. 105-285, §109(2)(G), added par. (11).

Subsec. (c). Pub. L. 105-285, §109(3), inserted “and collaborate” after “shall coordinate” and “and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419)” after “(20 U.S.C. 2741 et seq.)” and substituted “the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), and other early childhood education and development” for “section 602(g) of this title, and other”.

Subsec. (d)(1). Pub. L. 105-285, §109(4)(A), substituted “take steps to ensure, to the maximum extent possible, that children maintain” for “carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation

of parents and schools) to enable children to maintain” and “build” for “to build” and inserted “and educational” after “developmental”.

Subsec. (d)(2), (3). Pub. L. 105-285, §109(4)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which related to coordination between Head Start agency and local education agency and schools.

Subsec. (d)(4). Pub. L. 105-285, §109(4)(C), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (d)(4)(A). Pub. L. 105-285, §109(4)(D), substituted “section 9837a of this title” for “the Head Start Transition Project Act (42 U.S.C. 9855 et seq.)”.

Subsec. (d)(5). Pub. L. 105-285, §109(4)(C), redesignated par. (5) as (4).

Subsec. (e). Pub. L. 105-285, §109(5), added subsec. (e).

1994—Subsec. (b). Pub. L. 103-252, §109(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In order to be so designated, a Head Start agency must also (1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests; (2) provide for their regular participation in the implementation of such programs; (3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources; (4) involve parents of children participating in its Head Start program in appropriate educational services (in accordance with the performance standards in effect upon section 9846(b) of this title or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential; (5) establish procedures to seek reimbursement, to the extent feasible, from other agencies for services for which any such other agency is responsible, which are provided to a Head Start participant by the Head Start agency; (6) provide (directly or through referral to educational services available in the community) parents of children participating in its Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and (7) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.”

Subsec. (c). Pub. L. 103-252, §109(2), struck out “schools that will subsequently serve children in Head Start programs,” after “coordinate with” and inserted “, including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.),” after “other programs”.

Subsec. (d). Pub. L. 103-252, §109(3), added subsec. (d). 1992—Subsec. (b)(6), (7). Pub. L. 102-401, §2(i), added cls. (6) and (7).

Subsec. (c). Pub. L. 102-401, §2(k)(3), substituted “subchapter” for “subtitle”.

1990—Subsec. (b)(4), (5). Pub. L. 101-501, §109(1), added cl. (4) and redesignated former cl. (4) as (5).

Subsec. (c). Pub. L. 101-501, §109(2), substituted “with schools that will subsequently serve children in Head Start programs, the State agency responsible for administering section 602(g) of this title, and other programs serving the children and families served by the Head Start agency to carry out the provisions of this subtitle” for “with other State and local programs serving the children in the Head Start agency to carry out the provisions of this subsection”.

1986—Subsec. (c). Pub. L. 99-425 inserted “State and local” before “programs”.

#### Statutory Notes and Related Subsidiaries

##### 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 Title 20, Education.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

### § 9837a. Head Start transition and alignment with K-12 education

#### (a) In general

Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program to promote continuity of services and effective transitions, including—

(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

(2) establishing ongoing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)), and health staff) to facilitate coordination of programs;

(3) establishing ongoing communications between the Head Start agency and local educational agency for developing continuity of developmentally appropriate curricular objectives (which for the purpose of the Head Start program shall be aligned with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards) and for shared expectations for children’s learning and development as the children transition to school;

(4) organizing and participating in joint training, including transition-related training for school staff and Head Start staff;

(5) establishing comprehensive transition policies and procedures that support children transitioning to school, including by engaging the local educational agency in the establishment of such policies;

(6) conducting outreach to parents and elementary school (such as kindergarten) teach-

ers to discuss the educational, developmental, and other needs of individual children;

(7) helping parents of limited English proficient children understand—

(A) the instructional and other services provided by the school in which such child will enroll after participation in Head Start; and

(B) as appropriate, the information provided to parents of English learners under section 1112(e)(3) of the Elementary and Secondary Education Act of the<sup>1</sup> 1965 [20 U.S.C. 6312(e)(3)];

(8) developing and implementing a family outreach and support program, in cooperation with entities carrying out parent and family engagement efforts under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), taking into consideration the language needs of parents of limited English proficient children;

(9) assisting families, administrators, and teachers in enhancing educational and developmental continuity and continuity of parental involvement in activities between Head Start services and elementary school classes;

(10) linking the services provided in such Head Start program with educational services, including services relating to language, literacy, and numeracy, provided by such local educational agency;

(11) helping parents (including grandparents and kinship caregivers, as appropriate) to understand the importance of parental involvement in a child's academic success while teaching them strategies for maintaining parental involvement as their child moves from Head Start to elementary school;

(12) helping parents understand the instructional and other services provided by the school in which their child will enroll after participation in the Head Start program;

(13) developing and implementing a system to increase program participation of underserved populations of eligible children; and

(14) coordinating activities and collaborating to ensure that curricula used in the Head Start program are aligned with—

(A) the Head Start Child Outcomes Framework, as developed by the Secretary; and

(B) State early learning standards, as appropriate, with regard to cognitive, social, emotional, and physical competencies that children entering kindergarten are expected to demonstrate.

#### (b) Construction

In this section, a reference to a Head Start agency, or its program, services, facility, or personnel, shall not be construed to be a reference to an Early Head Start agency, or its program, services, facility, or personnel.

#### (c) Dissemination and technical assistance

The Secretary, in consultation with the Secretary of Education, shall—

(1) disseminate to Head Start agencies information on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

(2) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.

(Pub. L. 97-35, title VI, § 642A, as added Pub. L. 105-285, title I, § 110, Oct. 27, 1998, 112 Stat. 2717; amended Pub. L. 110-134, § 10, Dec. 12, 2007, 121 Stat. 1407; Pub. L. 114-95, title IX, § 9215(nn)(4), Dec. 10, 2015, 129 Stat. 2177.)

### Editorial Notes

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(8), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(8), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

#### AMENDMENTS

2015—Subsec. (a)(7)(B). Pub. L. 114-95, § 9215(nn)(4)(A), substituted “the information provided to parents of English learners under section 1112(e)(3) of the Elementary and Secondary Education Act of the 1965” for “the information provided to parents of limited English proficient children under section 3302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7012)”.

Subsec. (a)(8). Pub. L. 114-95, § 9215(nn)(4)(B), substituted “parent and family engagement efforts under title I of the Elementary and Secondary Education Act of 1965” for “parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.)”.

2007—Pub. L. 110-134 amended section generally. Prior to amendment, section related to requirements for Head Start agencies to coordinate with local educational agencies and schools to assist in transition from Head Start to school.

### Statutory Notes and Related Subsidiaries

#### 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 Title 20, Education.

### § 9837b. Head Start collaboration; State early education and care

(a)(1) From amounts made available under section 9835(a)(2)(B)(vi) of this title, the Secretary shall award the collaboration grants described in paragraphs (2), (3), and (4).

(2)(A) The Secretary shall award, upon submission of a written request, a collaboration grant to each State and to each national administrative office serving Indian Head Start programs and migrant or seasonal Head Start programs to facilitate collaboration among Head Start agencies (including Early Head Start agencies) and

<sup>1</sup> So in original.

entities that carry out activities designed to benefit low-income children from birth to school entry, and their families. The national administrative offices shall use the funds made available through the grants to carry out the authorities and responsibilities described in subparagraph (B) and paragraphs (3) and (4), as appropriate.

(B) Grants described in subparagraph (A) shall be used to—

(i) assist Head Start agencies to collaborate with entities involved in State and local planning processes to better meet the needs of low-income children from birth to school entry, and their families;

(ii) assist Head Start agencies to coordinate activities with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.] and entities providing resource and referral services in the State, to make full-working-day and full calendar year services available to children;

(iii) promote alignment of curricula used in Head Start programs and continuity of services with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

(iv) promote better linkages between Head Start agencies and other child and family agencies, including agencies that provide health, mental health, or family services, or other child or family supportive services, such as services provided under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

(v) carry out the activities of the State Director of Head Start Collaboration authorized in paragraph (4).

(3) In order to improve coordination and delivery of early childhood education and development to children in the State, a State that receives a collaboration grant under paragraph (2) shall—

(A) appoint or designate an individual to serve as, or carry out the responsibilities of, the State Director of Head Start Collaboration;

(B) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in paragraph (2) is effective and involves a range of State agencies; and

(C) involve the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration office involved.

(4) The State Director of Head Start Collaboration shall—

(A) not later than 1 year after the State receives a collaboration grant under paragraph (2), conduct an assessment that—

(i) addresses the needs of Head Start agencies in the State with respect to collaboration, coordination and alignment of services, and alignment of curricula and assessments used in Head Start programs with the Head

Start Child Outcomes Framework and, as appropriate, State early learning standards;

(ii) shall be updated on an annual basis; and

(iii) shall be made available to the general public within the State;

(B) develop a strategic plan that is based on the assessment described in subparagraph (A) that will—

(i) enhance collaboration and coordination of Head Start services by Head Start agencies with other entities providing early childhood education and development (such as child care or services offered by museums), health care, mental health care, welfare, child protective services, education and community service activities, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood education and development for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for services described in this clause;

(ii) assist Head Start agencies to develop a plan for the provision of full working-day, full calendar year services for children enrolled in Head Start programs who need such services;

(iii) assist Head Start agencies to align curricula and assessments used in Head Start programs with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

(iv) enable Head Start agencies to better access professional development opportunities for Head Start staff, such as by working with Head Start agencies to enable the agencies to meet the degree requirements described in section 9843a(a)(2)(A) of this title, including providing distance learning opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and

(v) enable the Head Start agencies to better conduct outreach to eligible families;

(C) promote partnerships between Head Start agencies, State and local governments, and the private sector to help ensure that children from low-income families, who are in Head Start programs or are preschool age, are receiving comprehensive services to prepare the children for elementary school;

(D) consult with the chief State school officer, local educational agencies, and providers of early childhood education and development, at both the State and local levels;

(E) promote partnerships between Head Start agencies, schools, law enforcement, relevant community-based organizations, and substance abuse and mental health treatment agencies to strengthen family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high-risk behaviors that compromise healthy development;

(F) promote partnerships between Head Start agencies and other organizations in order to enhance Head Start program quality, including partnerships to promote inclusion of more books in Head Start classrooms;

(G) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State; and

(H) serve on the State Advisory Council in order to assist the efforts of Head Start agencies to engage in effective coordination and collaboration.

(b)(1)(A) The Governor of the State shall—

(i) designate or establish a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry (in this subchapter referred to as the “State Advisory Council”); and

(ii) designate an individual to coordinate activities of the State Advisory Council, as described in subparagraph (D)(i).

(B) The Governor may designate an existing entity in the State to serve as the State Advisory Council, and shall appoint representatives to the State Advisory Council at the Governor’s discretion. In designating an existing entity, the Governor shall take steps to ensure that its membership includes, to the extent possible, representatives consistent with subparagraph (C).

(C) Members of the State Advisory Council shall include, to the maximum extent possible—

(i) a representative of the State agency responsible for child care;

(ii) a representative of the State educational agency;

(iii) a representative of local educational agencies;

(iv) a representative of institutions of higher education in the State;

(v) a representative of local providers of early childhood education and development services;

(vi) a representative from Head Start agencies located in the State, including migrant and seasonal Head Start programs and Indian Head Start programs;

(vii) the State Director of Head Start Collaboration;

(viii) a representative of the State agency responsible for programs under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(ix) a representative of the State agency responsible for health or mental health care; and

(x) representatives of other entities determined to be relevant by the Governor of the State.

(D)(i) The State Advisory Council shall, in addition to any responsibilities assigned to the Council by the Governor of the State—

(I) conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the State;

(II) identify opportunities for, and barriers to, collaboration and coordination among Federally-funded and State-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among State agencies responsible for administering such programs;

(III) develop recommendations for increasing the overall participation of children in existing Federal, State, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

(IV) develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

(V) develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the State;

(VI) assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education in the State toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or prekindergarten program; and

(VII) make recommendations for improvements in State early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate.

(ii) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the activities described in clause (i). The State Advisory Council shall submit a statewide strategic report addressing the activities described in clause (i) to the State Director of Head Start Collaboration and the Governor of the State.

(iii) After submission of a statewide strategic report under clause (ii), the State Advisory Council shall meet periodically to review any implementation of the recommendations in such report and any changes in State and local needs.

(2)(A) The Secretary shall use the portion reserved under section 9835(a)(4)(A)(iii) of this title to award, on a competitive basis, one-time startup grants of not less than \$500,000 to eligible States to enable such States to pay for the Federal share of developing and implementing a plan pursuant to the responsibilities included under paragraph (1)(D)(i). A State that receives funds under this paragraph shall use such funds to facilitate the development or enhancement of high-quality systems of early childhood education and care designed to improve school preparedness through one or more of the following activities—

(i) promoting school preparedness of children from birth through school entry, including activities to encourage families and caregivers to engage in highly interactive, developmentally and age-appropriate activities to improve children’s early social, emotional,

and cognitive development, support the transition of young children to school, and foster parental and family involvement in the early education of young children;

(ii) supporting professional development, recruitment, and retention initiatives for early childhood educators;

(iii) enhancing existing early childhood education and development programs and services (in existence on the date on which the grant involved is awarded), including quality improvement activities authorized under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.]; and

(iv) carrying out other activities consistent with the State's plan and application, pursuant to subparagraph (B).

(B) To be eligible to receive a grant under this paragraph, a State shall prepare and submit to the Secretary a plan and application, for a 3-year period, at such time, in such manner, and containing such information as the Secretary shall require, including—

(i) the statewide strategic report described in paragraph (1)(D)(ii), including a description of the State Advisory Council's responsibilities under paragraph (1)(D)(i);

(ii) a description, for each fiscal year, of how the State will make effective use of funds available under this paragraph, with funds described in subparagraph (C), to create an early childhood education and care system, by developing or enhancing programs and activities consistent with the statewide strategic report described in paragraph (1)(D)(i);

(iii) a description of the State early learning standards and the State's goals for increasing the number of children entering kindergarten ready to learn;

(iv) information identifying the agency or joint interagency office, and individual, designated to carry out the activities under this paragraph, which may be the individual designated under paragraph (1)(A)(ii); and

(v) a description of how the State plans to sustain activities under this paragraph beyond the grant period.

(C) The Federal share of the cost of activities proposed to be conducted under subparagraph (A) shall be 30 percent, and the State shall provide the non-Federal share.

(D) Funds made available under this paragraph shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities related to early childhood education and care in the State.

(E) Not later than 18 months after the date a State receives a grant under this paragraph, the State shall submit an interim report to the Secretary. A State that receives a grant under this paragraph shall submit a final report to the Secretary at the end of the grant period. Each report shall include—

(i) a description of the activities and services carried out under the grant, including the outcomes of such activities and services in meeting the needs described in the periodic needs assessment and statewide strategic report;

(ii) information about how the State used such funds to meet the goals of this subsection

through activities to develop or enhance high-quality systems of early childhood education and care, increase effectiveness of delivery systems and use of funds, and enhance existing programs and services;

(iii) information regarding the remaining needs described in the periodic statewide needs assessment and statewide strategic report that have not yet been addressed by the State; and

(iv) any other information that the Secretary may require.

(F) Nothing in this subsection shall be construed to provide the State Advisory Council with authority to modify, supersede, or negate the requirements of this subchapter.

(Pub. L. 97-35, title VI, §642B, as added and amended Pub. L. 110-134, §11, Dec. 12, 2007, 121 Stat. 1408.)

### Editorial Notes

#### REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in subsecs. (a)(2)(B)(ii) and (b)(2)(A)(iii), 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 this title. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(B)(iv) and (b)(1)(C)(viii), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

#### AMENDMENTS

2007—Subsec. (b). Pub. L. 110-134, §11(b), added subsec. (b).

### § 9838. Submission of plans to chief executive officer

In carrying out the provisions of this subchapter, no contract, agreement, grant, or other assistance shall be made for the purpose of carrying out a Head Start program within a State unless a plan setting forth such proposed contract, agreement, grant, or other assistance has been submitted to the chief executive officer of the State, and such plan has not been disapproved by such officer within 45 days of such submission, or, if disapproved (for reasons other than failure of the program to comply with State health, safety, and child care laws, including regulations applicable to comparable child care programs in the State), has been reconsidered by the Secretary and found by the Secretary to be fully consistent with the provisions and in furtherance of the purposes of this subchapter, as evidenced by a written statement of the Secretary's findings that is transmitted to such officer. Funds to cover the costs of the proposed contract, agreement, grant, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to such officer. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any institution of

higher education in existence on August 13, 1981. This section shall not apply to contracts, agreements, grants, loans, or other assistance for Indian Head Start programs or migrant or seasonal Head Start programs.

(Pub. L. 97-35, title VI, § 643, Aug. 13, 1981, 95 Stat. 502; Pub. L. 101-501, title I, § 110, Nov. 3, 1990, 104 Stat. 1231; Pub. L. 102-401, § 2(k)(4), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 105-285, title I, § 111, Oct. 27, 1998, 112 Stat. 2718; Pub. L. 110-134, § 12, Dec. 12, 2007, 121 Stat. 1414.)

#### Editorial Notes

##### AMENDMENTS

2007—Pub. L. 110-134 inserted at end “This section shall not apply to contracts, agreements, grants, loans, or other assistance for Indian Head Start programs or migrant or seasonal Head Start programs.”

1998—Pub. L. 105-285, in first sentence, substituted “45 days” for “30 days” and “disapproved (for reasons other than failure of the program to comply with State health, safety, and child care laws, including regulations applicable to comparable child care programs in the State)” for “so disapproved” and inserted “, as evidenced by a written statement of the Secretary’s findings that is transmitted to such officer” before period.

1992—Pub. L. 102-401 substituted “such officer” for “the such officer” in two places.

1990—Pub. L. 101-501 substituted “chief executive officer” for first reference to “Governor” and “such officer” for second and third references to “Governor”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### § 9839. Administrative requirements and standards

##### (a) Employment practices, nonpartisanship, staff accountability, public access to information, etc.

(1) Each Head Start agency shall observe standards of organization, management, and administration that will ensure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible.

(2) Each Head Start agency shall make available to the public a report published at least

once in each fiscal year that discloses the following information from the most recently concluded fiscal year, except that reporting such information shall not reveal personally identifiable information about an individual child or parent:

(A) The total amount of public and private funds received and the amount from each source.

(B) An explanation of budgetary expenditures and proposed budget for the fiscal year.

(C) The total number of children and families served, the average monthly enrollment (as a percentage of funded enrollment), and the percentage of eligible children served.

(D) The results of the most recent review by the Secretary and the financial audit.

(E) The percentage of enrolled children that received medical and dental exams.

(F) Information about parent involvement activities.

(G) The agency’s efforts to prepare children for kindergarten.

(H) Any other information required by the Secretary.

(3) Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to—

(A) establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits;

(B) assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness;

(C) guard against personal or financial conflicts of interest; and

(D) define employee duties in an appropriate manner that will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action that is in violation of law.

##### (b) Development and administrative costs of programs

Except as provided in subsection (f), no financial assistance shall be extended under this subchapter in any case in which the Secretary determines that the costs of developing and administering a program assisted under this subchapter exceed 15 percent of the total costs, including the required non-Federal contributions to such costs, of such program. The Secretary shall establish by regulation, criteria for determining (1) the costs of developing and administering such program; and (2) the total costs of such program. In any case in which the Secretary determines that the cost of administering such program does not exceed 15 percent of such total costs but is, in the judgment of the Secretary, excessive, the Secretary shall forthwith require the recipient of such financial assistance to take such steps prescribed by the Secretary as will eliminate such excessive administrative cost, including the sharing by one or more Head Start agencies of a common director and other administrative personnel. The Secretary may

waive the limitation prescribed by this subsection for specific periods of time not to exceed 12 months whenever the Secretary determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

**(c) Rules and regulations; special or simplified requirements for small agencies; common or joint use of facilities**

The Secretary shall prescribe rules or regulations to supplement subsections (a) and (f), which shall be binding on all agencies carrying on Head Start program activities with financial assistance under this subchapter. The Secretary may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be established to ensure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this subchapter and other programs shall be fairly allocated among the various programs which utilize such facilities and services.

**(d) Publication and notification of proposed rules, etc.**

At least 30 days prior to their effective date, all rules, regulations, and application forms shall be published in the Federal Register and shall be sent to each grantee with the notification that each such grantee has the right to submit comments pertaining thereto to the Secretary prior to the final adoption thereof.

**(e) Neutrality concerning union organizing**

Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.

**(f) Purchase of facility; approval requirements; financial assistance**

(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities, or to request approval of the purchase (after December 31, 1986) of facilities, to be used to carry out Head Start programs. The Secretary shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of such facilities.

(2) Financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

(A) a description of the efforts by the agency to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section;

(B) a description of the site of the facility proposed to be purchased or that was previously purchased;

(C) the plans and specifications of such facility;

(D) information demonstrating that—

(i) the proposed purchase will result, or the previous purchase has resulted, in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

(ii) the lack of alternative facilities will prevent, or would have prevented, the operation of such program;

(E) in the case of a request regarding a previously purchased facility, information demonstrating that the facility will be used principally as a Head Start center, or a direct support facility for a Head Start program; and

(F) such other information and assurances as the Secretary may require.

(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility.

**(g) Payments for capital expenditures**

(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, to the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

(A) construction of facilities that are not in existence on the date of the determination;

(B) major renovation of facilities in existence on such date; and

(C) purchase of vehicles used for programs conducted at the Head Start facilities.

(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40.

### (h) Personnel preferences to Indian tribe members

In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

(Pub. L. 97-35, title VI, § 644, Aug. 13, 1981, 95 Stat. 502; Pub. L. 101-501, title I, §§ 111, 112, Nov. 3, 1990, 104 Stat. 1231; Pub. L. 102-401, § 2(j), Oct. 7, 1992, 106 Stat. 1958; Pub. L. 103-218, title IV, § 403, Mar. 9, 1994, 108 Stat. 96; Pub. L. 103-252, title I, § 110, May 18, 1994, 108 Stat. 636; Pub. L. 105-285, title I, § 106(e), Oct. 27, 1998, 112 Stat. 2712; Pub. L. 110-134, § 13, Dec. 12, 2007, 121 Stat. 1414.)

### Editorial Notes

#### CODIFICATION

In subsec. (g)(3), “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the ‘Davis-Bacon Act’)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-134, § 13(1), added subsec. (a) and struck out former subsec. (a) which related to employment practices, nonpartisanship, staff accountability, and public access to information.

Subsec. (f)(2). Pub. L. 110-134, § 13(2)(A), added subpar. (A) and redesignated former subpars. (A) to (E) as (B) to (F), respectively.

Subsec. (f)(3). Pub. L. 110-134, § 13(2)(B), struck out “, from the amount reserved under section 9835(a)(2)(A) of this title,” after “financial assistance”.

1998—Subsec. (f)(2). Pub. L. 105-285 substituted “Financial assistance” for “Except as provided in section 9835(a)(3)(C)(v) of this title, financial assistance”.

1994—Subsec. (d). Pub. L. 103-252, § 110(1), struck out “guidelines, instructions,” after “all rules, regulations,”.

Subsec. (f)(1). Pub. L. 103-218, § 403(1), inserted “, or to request approval of the purchase (after December 31, 1986) of facilities,” after “to purchase facilities” and inserted at end “The Secretary shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of such facilities.”

Subsec. (f)(2). Pub. L. 103-252, § 110(2)(A), substituted “section 9835(a)(3)(C)(v)” for “section 9835(a)(3)(A)(v)”.

Subsec. (f)(2)(A). Pub. L. 103-218, § 403(2)(A), inserted before semicolon at end “or that was previously purchased”.

Subsec. (f)(2)(C)(i). Pub. L. 103-218, § 403(2)(B)(i), inserted “, or the previous purchase has resulted,” after “purchase will result”.

Subsec. (f)(2)(C)(ii). Pub. L. 103-218, § 403(2)(B)(ii), inserted “, or would have prevented,” after “will prevent” and struck out “and” after semicolon at end.

Subsec. (f)(2)(D), (E). Pub. L. 103-218, § 403(2)(C), (D), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (f)(3). Pub. L. 103-252, § 110(2)(B), added par. (3).

Subsecs. (g), (h). Pub. L. 103-252, § 110(3), added subsecs. (g) and (h).

1992—Subsec. (b). Pub. L. 102-401, § 2(j)(1), substituted “Except as provided in subsection (f), no” for “No”.

Subsec. (c). Pub. L. 102-401, § 2(j)(2), substituted “subsections (a) and (f)” for “subsection (a)”.

Subsec. (f). Pub. L. 102-401, § 2(j)(3), added subsec. (f). 1990—Subsec. (b). Pub. L. 101-501, § 111, inserted “the required” before “non-Federal contributions”.

Subsec. (e). Pub. L. 101-501, § 112, added subsec. (e).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### STUDY OF BENEFITS FOR HEAD START EMPLOYEES

Pub. L. 103-252, title I, § 120, May 18, 1994, 108 Stat. 648, provided that:

“(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

“(b) REPORT.—

“(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

“(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals;

“(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program; and

“(C) addresses the feasibility of participation by such individuals in the Federal Employees’ Retirement System under chapter 84 of title 5, United States Code.

“(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.”

### § 9840. Participation in Head Start programs

#### (a) Criteria for eligibility

(a)(1)(A)<sup>1</sup> The Secretary shall by regulation prescribe eligibility for the participation of persons in Head Start programs assisted under this subchapter.

(B) Except as provided in paragraph (2), such regulation shall provide—

(i) that children from low-income families shall be eligible for participation in programs assisted under this subchapter if their families’ incomes are below the poverty line, or if their families are eligible or, in the absence of child care, would potentially be eligible for public assistance;

(ii) that homeless children shall be deemed to be eligible for such participation;

<sup>1</sup> So in original. The “(a)” probably should not appear.

(iii) that programs assisted under this subchapter may include—

(I) to a reasonable extent (but not to exceed 10 percent of participants), participation of children in the area served who would benefit from such programs but who are not eligible under clause (i) or (ii); and

(II) from the area served, an additional 35 percent of participants who are not eligible under clause (i) or (ii) and whose families have incomes below 130 percent of the poverty line, if—

(aa) the Head Start agency involved establishes and implements outreach and enrollment policies and procedures that ensure such agency is meeting the needs of children eligible under clause (i) or (ii) (or subclause (I) if the child involved has a disability) prior to meeting the needs of children eligible under this subclause; and

(bb) in prioritizing the selection of children to be served, the Head Start agency establishes criteria that provide that the agency will serve children eligible under clause (i) or (ii) prior to serving the children eligible under this subclause;

(iv) that any Head Start agency serving children eligible under clause (iii)(II) shall report annually to the Secretary information on—

(I) how such agency is meeting the needs of children eligible under clause (i) or (ii), in the area served, including local demographic data on families of children eligible under clause (i) or (ii);

(II) the outreach and enrollment policies and procedures established by the agency that ensure the agency is meeting the needs of children eligible under clause (i) or (ii) (or clause (iii)(I) if the child involved has a disability) prior to meeting the needs of children eligible under clause (iii)(II);

(III) the efforts, including outreach efforts (that are appropriate to the community involved), of such agency to be fully enrolled with children eligible under clause (i) or (ii);

(IV) the policies, procedures, and selection criteria such agency is implementing to serve eligible children, consistent with clause (iii)(II);

(V) the agency's enrollment level, and enrollment level over the fiscal year prior to the fiscal year in which the report is submitted;

(VI) the number of children served by the agency, disaggregated by whether such children are eligible under clause (i), clause (ii), clause (iii)(I), or clause (iii)(II); and

(VII) the eligibility criteria category of the children on the agency's waiting list;

(v) that a child who has been determined to meet the eligibility criteria described in this subparagraph and who is participating in a Head Start program in a program year shall be considered to continue to meet the eligibility criteria through the end of the succeeding program year.

(C) In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the eligibility criteria, an entity may consider evi-

dence of family income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.

(2) Whenever a Head Start program is operated in a community with a population of 1,000 or less individuals and—

(A) there is no other preschool program in the community;

(B) the community is located in a medically underserved area, as designated by the Secretary pursuant to section 254c(b)(3)<sup>2</sup> of this title and is located in a health professional shortage area, as designated by the Secretary pursuant to section 254e(a)(1) of this title;

(C) the community is in a location which, by reason of remoteness, does not permit reasonable access to the types of services described in clauses (A) and (B); and

(D) not less than 50 percent of the families to be served in the community are eligible under the eligibility criteria established by the Secretary under paragraph (1);

the Head Start program in each such locality shall establish the criteria for eligibility, except that no child residing in such community whose family is eligible under such eligibility criteria shall, by virtue of such project's eligibility criteria, be denied an opportunity to participate in such program. During the period beginning on October 30, 1984, and ending on October 1, 1994, and unless specifically authorized in any statute of the United States enacted after October 30, 1984, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.

(3)(A) In this paragraph:

(i) The term "dependent" has the meaning given the term in paragraphs (2)(A) and (4)(A)(i) of section 401(a) of title 37.

(ii) The terms "member" and "uniformed services" have the meanings given the terms in paragraphs (23) and (3), respectively, of section 101 of title 37.

(B) The following amounts of pay and allowance of a member of the uniformed services shall not be considered to be income for purposes of determining the eligibility of a dependent of such member for programs funded under this subchapter:

(i) The amount of any special pay payable under section 310 or 351 of title 37, relating to duty subject to hostile fire or imminent danger.

(ii) The amount of basic allowance payable under section 403 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military

<sup>2</sup> See References in Text note below.

housing under subchapter IV of chapter 169 of title 10 or any other related provision of law.

(4) After demonstrating a need through a communitywide strategic planning and needs assessment, a Head Start agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-working-day sessions.

(5)(A) Upon written request and pursuant to the requirements of this paragraph, a Head Start agency may use funds that were awarded under this subchapter to serve children age 3 to compulsory school age, in order to serve infants and toddlers if the agency submits an application to the Secretary containing, as specified in rules issued by the Secretary, all of the following information:

(i) The amount of such funds that are proposed to be used in accordance with section 9840a(b) of this title.

(ii) A communitywide strategic planning and needs assessment demonstrating how the use of such funds would best meet the needs of the community.

(iii) A description of how the needs of pregnant women, and of infants and toddlers, will be addressed in accordance with section 9840a(b) of this title, and with regulations prescribed by the Secretary pursuant to section 9836a of this title in areas including the agency's approach to child development and provision of health services, approach to family and community partnerships, and approach to program design and management.

(iv) A description of how the needs of eligible children will be met in the community.

(v) Assurances that the agency will participate in technical assistance activities (including planning, start-up site visits, and national training activities) in the same manner as recipients of grants under section 9840a of this title.

(vi) Evidence that the agency meets the same eligibility criteria as recipients of grants under section 9840a of this title.

(B) An application that satisfies the requirements specified in subparagraph (A) shall be approved by the Secretary unless the Secretary finds that—

(i) the agency lacks adequate capacity and capability to carry out an effective Early Head Start program; or

(ii) the information provided under subparagraph (A) is inadequate.

(C) In approving such applications, the Secretary shall take into account the costs of serving persons under section 9840a of this title.

(D) Any Head Start agency with an application approved under subparagraph (B) shall be considered to be an Early Head Start agency and shall be subject to the same rules, regulations, and conditions as apply to recipients of grants under section 9840a of this title, with respect to activities carried out under this paragraph.

**(b) Establishment of fee schedule or charging of fees; payment by families willing and able to pay**

The Secretary shall not prescribe any fee schedule or otherwise provide for the charging

of any fees for participation in Head Start programs, unless such fees are authorized by legislation hereafter enacted. Nothing in this subsection shall be construed to prevent the families of children who participate in Head Start programs and who are willing and able to pay the full cost of such participation from doing so. A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the collaborative. The copayment charged to families receiving services through the Head Start program shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.

**(c) Availability of more than one year of services; children eligible**

Each Head Start program operated in a community shall be permitted to provide more than 1 year of Head Start services to eligible children in the State. Each Head Start program operated in a community shall be permitted to recruit and accept applications for enrollment of children throughout the year.

**(d) Indian tribes**

(1) An Indian tribe that—

(A) operates a Head Start program;

(B) enrolls as participants in the program all children in the community served by the tribe (including a community that is an off-reservation area, designated by an appropriate tribal government, in consultation with the Secretary) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

(3) Notwithstanding any other provision of this Act, an Indian tribe or tribes that operates both an Early Head Start program under section 9840a of this title and a Head Start program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year shall not serve as the basis for the Secretary to reduce a base grant (as defined in section 9835(a)(7) of this title) for either program in succeeding years.

(Pub. L. 97-35, title VI, §645, Aug. 13, 1981, 95 Stat. 504; Pub. L. 98-558, title I, §105, Oct. 30,

1984, 98 Stat. 2879; Pub. L. 99-425, title I, §104, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-501, title I, §§113, 114, Nov. 3, 1990, 104 Stat. 1231; Pub. L. 101-597, title IV, §401(e), Nov. 16, 1990, 104 Stat. 3035; Pub. L. 103-252, title I, §111, May 18, 1994, 108 Stat. 637; Pub. L. 105-285, title I, §112, Oct. 27, 1998, 112 Stat. 2718; Pub. L. 110-134, §14, Dec. 12, 2007, 121 Stat. 1415; Pub. L. 114-328, div. A, title VI, §618(j), Dec. 23, 2016, 130 Stat. 2161.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 254c of this title, referred to in subsec. (a)(2)(B), was in the original a reference to section 330 of the Public Health Service Act, act July 1, 1944, which was omitted in the general amendment of subpart I (§254b et seq.) of part D of subchapter II of chapter 6A of this title by Pub. L. 104-299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104-299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

This Act, referred to in subsec. (d)(3), is Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, known as the Omnibus Budget Reconciliation Act of 1981. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2016—Subsec. (a)(3)(B)(i). Pub. L. 114-328 inserted “or 351” after “section 310”.

2007—Subsec. (a). Pub. L. 110-134, §14(1)(A), added par. (a)(1) and struck out former par. (1) which related to criteria for eligibility for participation in Head Start programs assisted under this subchapter.

Subsec. (a)(3) to (5). Pub. L. 110-134, §14(1)(B), added pars. (3) to (5).

Subsec. (c). Pub. L. 110-134, §14(2), struck out “(age 3 to compulsory school attendance)” after “eligible children”.

Subsec. (d)(3). Pub. L. 110-134, §14(3), added par. (3) and struck out former par. (3) which read as follows: “In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 9835(g)(3) of this title, are to be used for expanding Head Start programs under this subchapter.”

1998—Subsec. (a)(1). Pub. L. 105-285, §112(a), substituted “criteria may provide—” for “criteria may provide”, realigned margins of subpars. (A) and (B), in subpar. (B) substituted “shall prescribe, that—” for “shall prescribe, that”, inserted “(i)” before “programs assisted under this subchapter may”, and substituted “subparagraph (A); and”, cl. (ii), and concluding provisions for “clause (A).”

Subsec. (b). Pub. L. 105-285, §112(b), inserted at end “A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the collaborative. The copayment charged to families receiving services through the Head Start program shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.”

Subsec. (c). Pub. L. 105-285, §112(c), inserted at end “Each Head Start program operated in a community shall be permitted to recruit and accept applications for enrollment of children throughout the year.”

Subsec. (d)(1)(B). Pub. L. 105-285, §112(d), substituted “a community that is an off-reservation area, designated by an appropriate tribal government, in consultation with the Secretary” for “a community with a near-reservation designation, as defined by the Bureau of Indian Affairs”.

1994—Subsec. (c). Pub. L. 103-252, §111(1), substituted “shall be permitted to provide more than 1 year of

Head Start services to eligible children (age 3 to compulsory school attendance) in the State.” for “may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located. The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.”

Subsec. (d). Pub. L. 103-252, §111(2), added subsec. (d). 1990—Subsec. (a)(2). Pub. L. 101-501, §113, substituted “1994” for “1990” in closing provisions.

Subsec. (a)(2)(B). Pub. L. 101-597 substituted “health professional shortage area” for “health manpower shortage area”.

Subsec. (c). Pub. L. 101-501, §114, inserted at end “The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.”

1986—Subsec. (a)(2). Pub. L. 99-425 substituted “1990” for “1986” in closing provisions.

1984—Subsec. (a)(2). Pub. L. 98-558, §105(a), inserted at end “During the period beginning on October 30, 1984, and ending on October 1, 1986, and unless specifically authorized in any statute of the United States enacted after October 30, 1984, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.”

Subsec. (c). Pub. L. 98-558, §105(b), added subsec. (c).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

### § 9840a. Early Head Start programs

#### (a) In general

The Secretary shall make grants to entities (referred to in this subchapter as “Early Head Start agencies”) in accordance with this section for programs (referred to in this subchapter as “Early Head Start programs”) providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency.

#### (b) Scope and design of programs

In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

(1) provide, either directly or through referral, early, continuous, intensive, and com-

prehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

(2) ensure that the level of services provided to families responds to their needs and circumstances;

(3) promote positive parent-child interactions;

(4) provide services to parents to support their role as parents (including parenting skills training and training in basic child development) and services to help the families move toward self-sufficiency (including educational and employment services, as appropriate);

(5) coordinate services with services provided by programs in the State (including home-based services) and programs in the community (including programs for infants and toddlers with disabilities and programs for homeless infants and toddlers) to ensure a comprehensive array of services (such as health and mental health services and family support services);

(6) ensure that children with documented behavioral problems, including problems involving behavior related to prior or existing trauma, receive appropriate screening and referral;

(7) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

(8) develop and implement a systematic procedure for transitioning children and parents from an Early Head Start program to a Head Start program or other local early childhood education and development program;

(9) establish channels of communication between staff of the Early Head Start program, and staff of a Head Start program or other local providers of early childhood education and development programs, to facilitate the coordination of programs;

(10) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age;

(11) ensure formal linkages with providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), with the State interagency coordinating council, as established in part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and with the agency responsible for administering section 5106a of this title;

(12) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

**(c) Persons eligible to participate**

Persons who may participate in programs described in subsection (a) include—

- (1) pregnant women; and
- (2) families with children under age 3;

who meet the eligibility criteria specified in section 9840(a)(1) of this title, including the criteria specified in section 9840(a)(1)(B)(ii) of this title.

**(d) Eligible service providers**

To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

(1) entities operating Head Start programs under this subchapter;

(2) entities operating Indian Head Start programs or migrant or seasonal Head Start programs; and

(3) other public entities, and nonprofit or for-profit private entities, including community-based and faith-based organizations, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

**(e) Selection of grant recipients**

The Secretary shall award grants under this section on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

**(f) Distribution**

In awarding grants to eligible applicants under this section, the Secretary shall—

(1) ensure an equitable national geographic distribution of the grants; and

(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

**(g) Monitoring, training, technical assistance, and evaluation**

**(1) Requirement**

In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds made available under section 9835(a)(2)(E) of this title to monitor the operation of such programs, and funds made available under section 9835(a)(2)(C)(i)(I) of this title to provide training and technical assistance tailored to the particular needs of such programs, consistent with section 9835(c) of this title.

**(2) Training and technical assistance**

**(A) Activities**

Of the portion set aside under section 9835(a)(2)(C)(i)(I) of this title—

(i) not less than 50 percent shall be made available to Early Head Start agencies to use directly, which may include, at their discretion, the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, for training and technical assistance activities in order to make program improvements identified by such agencies;

(ii) not less than 25 percent shall be available to the Secretary to support a State-based training and technical assist-

ance system, or a national system, described in section 9843(e) of this title, including infant and toddler specialists, to support Early Head Start agencies, consistent with subparagraph (B); and

(iii) the remainder of such amount shall be made available to the Secretary to assist Early Head Start agencies in meeting and exceeding the standards described in section 9836a(a)(1) of this title (directly, or through grants, contracts, or other agreements or arrangements with an entity with demonstrated expertise relating to infants, toddlers, and families) by—

(I) providing ongoing training and technical assistance to Early Head Start agencies, including developing training and technical assistance materials and resources to support program development and improvement and best practices in providing services to children and families served by Early Head Start programs;

(II) supporting a national network of infant and toddler specialists designed to improve the quality of Early Head Start programs;

(III) providing ongoing training and technical assistance on Early Head Start program development and improvement for regional staff charged with monitoring and overseeing the administration of the program carried out under this section; and

(IV) if funds remain after the activities described in subclauses (I), (II), and (III) are carried out, carry out 1 or more of the following activities:

(aa) Providing support and program planning and implementation assistance for new Early Head Start agencies, including for agencies who want to use funds as described in section 9840(a)(5) of this title to serve infants and toddlers.

(bb) Creating special training and technical assistance initiatives targeted to serving high-risk populations, such as children in the child welfare system and homeless children.

(cc) Providing professional development designed to increase program participation for underserved populations of eligible children.

## **(B) Contracts**

For the purposes of supporting a State-based system, as described in subparagraph (A)(ii), that will meet the needs of Early Head Start agencies and provide high-quality, sustained, and intensive training and technical assistance on programming for infants and toddlers to Early Head Start agencies, and in order to help such agencies meet or exceed the standards described in section 9836a(a)(1) of this title, the Secretary shall—

(i) use funds reserved under subparagraph (A)(ii) in combination with funds reserved under section 9835(a)(2)(C)(i)(II)(bb) of this title to ensure the contracts described in section 9843(e)(1) of this title

provide for a minimum of 1 full-time specialist with demonstrated expertise in the development of infants and toddlers; and

(ii) ensure that such contracts and the services provided in the contracts are integrated with and augment the contracts awarded and services provided under section 9843(e) of this title;

## **(h) Center-based staff**

The Secretary shall—

(1) ensure that, not later than September 30, 2010, all teachers providing direct services to children and families participating in Early Head Start programs located in Early Head Start centers, have a minimum of a child development associate credential, and have been trained (or have equivalent coursework) in early childhood development; and

(2) establish staff qualification goals to ensure that not later than September 30, 2012, all such teachers have been trained (or have equivalent coursework) in early childhood development with a focus on infant and toddler development.

## **(i) Staff qualifications and development**

### **(1) Home visitor staff standards**

In order to further enhance the quality of home visiting services provided to families of children participating in home-based, center-based, or combination program options under this subchapter, the Secretary shall establish standards for training, qualifications, and the conduct of home visits for home visitor staff in Early Head Start programs.

### **(2) Contents of standards**

The standards for training, qualifications, and the conduct of home visits shall include content related to—

(A) structured child-focused home visiting that promotes parents' ability to support the child's cognitive, social, emotional, and physical development;

(B) effective strengths-based parent education, including methods to encourage parents as their child's first teachers;

(C) early childhood development with respect to children from birth through age 3;

(D) methods to help parents promote emergent literacy in their children from birth through age 3, including use of research-based strategies to support the development of literacy and language skills for children who are limited English proficient;

(E) ascertaining what health and developmental services the family receives and working with providers of these services to eliminate gaps in service by offering annual health, vision, hearing, and developmental screening for children from birth to entry into kindergarten, when needed;

(F) strategies for helping families coping with crisis; and

(G) the relationship of health and well-being of pregnant women to prenatal and early child development.

(Pub. L. 97-35, title VI, § 645A, as added Pub. L. 103-252, title I, § 112(a), May 18, 1994, 108 Stat. 638; amended Pub. L. 105-285, title I, § 113, Oct. 27,

1998, 112 Stat. 2719; Pub. L. 110-134, §15, Dec. 12, 2007, 121 Stat. 1418.)

### Editorial Notes

#### REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(11), 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 Title 20, Education. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

#### AMENDMENTS

2007—Pub. L. 110-134, §15(1), struck out “for families with infants and toddlers” after “programs” in section catchline.

Subsec. (a). Pub. L. 110-134, §15(2), substituted “The Secretary shall make grants to entities (referred to in this subchapter as ‘Early Head Start agencies’) in accordance with this section for programs (referred to in this subchapter as ‘Early Head Start programs’)” for “The Secretary shall make grants, in accordance with the provisions of this section for programs”.

Subsec. (b)(4). Pub. L. 110-134, §15(3)(A), added par. (4) and struck out former par. (4) which read as follows: “provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);”.

Subsec. (b)(5). Pub. L. 110-134, §15(3)(B), added par. (5) and struck out former par. (5) which read as follows: “coordinate services with services provided by programs in the State and programs in the community (including programs for infants and toddlers with disabilities) to ensure a comprehensive array of services (such as health and mental health services);”.

Subsec. (b)(6), (7). Pub. L. 110-134, §15(3)(C), (D), added par. (6) and redesignated former par. (6) as (7). Former par. (7) redesignated (10).

Subsec. (b)(8), (9). Pub. L. 110-134, §15(3)(E), added pars. (8) and (9).

Pub. L. 110-134, §15(3)(C), redesignated pars. (8) and (9) as (11) and (12), respectively.

Subsec. (b)(10). Pub. L. 110-134, §15(3)(C), redesignated par. (7) as (10).

Subsec. (b)(11). Pub. L. 110-134, §15(3)(F), added par. (11) and struck out former par. (11) which read as follows: “ensure formal linkages with the agencies and entities described in section 644(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)) and providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and”.

Pub. L. 110-134, §15(3)(C), redesignated par. (8) as (11).

Subsec. (b)(12). Pub. L. 110-134, §15(3)(C), redesignated par. (9) as (12).

Subsec. (c). Pub. L. 110-134, §15(4), substituted “eligibility criteria specified in section 9840(a)(1) of this title, including the criteria specified in section 9840(a)(1)(B)(ii) of this title” for “income criteria specified for families in section 9840(a)(1) of this title” in concluding provisions.

Subsec. (d)(1) to (3). Pub. L. 110-134, §15(5), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

“(1) entities operating Head Start programs under this subchapter; and

“(2) other public entities, and nonprofit or for-profit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.”

Subsec. (e). Pub. L. 110-134, §15(6), substituted “The Secretary shall award grants under this section” for “From the portion specified in section 9835(a)(6) of this

title, the Secretary shall award grants under this subsection”.

Subsec. (g). Pub. L. 110-134, §15(7), added subsec. (g) and struck out former subsec. (g) which related to monitoring, training, technical assistance, and evaluation of programs assisted under this section.

Subsecs. (h), (i). Pub. L. 110-134, §15(8), added subsecs. (h) and (i).

1998—Pub. L. 105-285, §113(1), inserted “Early Head Start” in section catchline.

Subsec. (a). Pub. L. 105-285, §113(2), substituted “provisions of this section for” for “provisions of this section for—”, struck out par. (1) designation before “programs providing”, substituted “self-sufficiency.” for “self-sufficiency; and”, and struck out par. (2) which read as follows: “provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before May 18, 1994.”

Subsec. (b)(5). Pub. L. 105-285, §113(3)(A), inserted “(including programs for infants and toddlers with disabilities)” after “community”.

Subsec. (b)(7). Pub. L. 105-285, §113(3)(B), struck out “and” at end.

Subsec. (b)(8), (9). Pub. L. 105-285, §113(3)(C), (D), added par. (8) and redesignated former par. (8) as (9).

Subsec. (c). Pub. L. 105-285, §113(4)(A), substituted “subsection (a)” for “subsection (a)(1)” in introductory provisions.

Subsec. (c)(2). Pub. L. 105-285, §113(4)(B), substituted “3;” for “3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3) of this section);”.

Subsec. (d). Pub. L. 105-285, §113(5), inserted “and” at end of par. (1), redesignated par. (3) as (2), inserted “or for-profit” after “nonprofit”, and struck out former par. (2) which read as follows: “entities that, on the day before the date of enactment of this section, were operating—

“(A) Parent-Child Centers receiving financial assistance under section 9835(a)(4) of this title, as in effect on such date; or

“(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and”.

Subsec. (e). Pub. L. 105-285, §113(8), struck out “other” before “grant recipients” in heading and substituted “From the portion specified in section 9835(a)(6) of this title,” for “From the balance remaining of the portion specified in section 9835(a)(6) of this title, after making grants to the eligible entities specified in subsection (e) of this section,” in text.

Pub. L. 105-285, §113(6), (7), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e) which related to time-limited priority for certain entities.

Subsecs. (f), (g). Pub. L. 105-285, §113(7), (10), added subsec. (g) and redesignated former subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (h). Pub. L. 105-285, §113(9), struck out heading and text of subsec. (h) which related to Secretarial responsibilities.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE

Section effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

### § 9841. Appeals, notice, hearing, and mediation; alternative agency for Indian tribe

#### (a) Notice requirements; suspension or termination of assistance stayed pending hearing; mediation

The Secretary shall prescribe—

(1) procedures to assure that special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this subchapter and whose application to the Head Start agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which the Secretary shall prescribe;

(2) procedures to assure that financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken;

(3) procedures to assure that financial assistance under this subchapter may be terminated or reduced, and an application for refunding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—

(A) a right to file a notice of appeal of a decision not later than 30 days after notice of the decision from the Secretary; and

(B) access to a full and fair hearing of the appeal, not later than 120 days after receipt by the Secretary of the notice of appeal;

(4) procedures (including mediation procedures) are developed and published, to be used in order to—

(A) resolve in a timely manner conflicts potentially leading to an adverse action between—

(i) recipients of financial assistance under this subchapter; and

(ii) delegate agencies, or policy councils of Head Start agencies;

(B) avoid the need for an administrative hearing on an adverse action; and

(C) prohibit a Head Start agency from expending financial assistance awarded under this subchapter for the purpose of paying legal fees, or other costs incurred, pursuant to an appeal under paragraph (3);

(5) procedures to assure that the Secretary may suspend financial assistance to a recipient under this subchapter—

(A) except as provided in subparagraph (B), for not more than 30 days; or

(B) in the case of a recipient under this subchapter that has multiple and recurring deficiencies for 180 days or more and has not made substantial and significant progress toward meeting the goals of the grantee's quality improvement plan or eliminating all deficiencies identified by the Secretary, during the hearing of an appeal described in paragraph (3), for any amount of time; and

(6) procedures to assure that in cases where a Head Start agency prevails in a decision under paragraph (4), the Secretary may determine and provide a reimbursement to the Head Start agency for fees deemed reasonable and customary.

**(b) Notification of conflict by Head Start agency to regional office**

In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict; and

(2) a reasonable period for the mediation.

**(c) Timeline for administrative hearing**

The Secretary shall also specify—

(1) a timeline for an administrative hearing, if necessary, on an adverse action; and

(2) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

**(d) Termination of designation not stayed upon appeal**

In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

**(e) Establishment of alternative agency by Indian tribe**

(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 9836 of this title as the Head Start agency providing services to the tribe, if—

(A) the Secretary terminates financial assistance under this section to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

(B) was responsible for a deficiency that—

(i) relates to the performance standards or financial management standards described in section 9836a(a)(1) of this title; and

(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).

(Pub. L. 97-35, title VI, §646, Aug. 13, 1981, 95 Stat. 504; Pub. L. 101-501, title I, §115, Nov. 3, 1990, 104 Stat. 1232; Pub. L. 103-252, title I, §113, May 18, 1994, 108 Stat. 641; Pub. L. 110-134, §16, Dec. 12, 2007, 121 Stat. 1421.)

**Editorial Notes**

**AMENDMENTS**

2007—Subsec. (a). Pub. L. 110-134, §16(1), struck out “procedures to assure that” after “prescribe” in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 110-134, §16(2), inserted “procedures to assure that” after the par. designation.

Subsec. (a)(3) to (6). Pub. L. 110-134, §16(3), added pars. (3) to (6) and struck out former pars. (3) and (4) which read as follows:

“(3) financial assistance under this subchapter shall not be terminated or reduced, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing; and

“(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

“(A) resolve in a timely manner conflicts potentially leading to adverse action between—

“(i) recipients of financial assistance under this subchapter; and

“(ii) delegate agencies or Head Start Parent Policy Councils; and

“(B) avoid the need for an administrative hearing on an adverse action.”

1994—Subsec. (a)(4). Pub. L. 103-252, §113(a), added par. (4).

Subsecs. (b) to (e). Pub. L. 103-252, §113(b), added subsecs. (b) to (e) and struck out former subsec. (b) which read as follows: “The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of title 45 of the Code of Federal Regulations as in effect on April 1, 1990.”

1990—Subsec. (a). Pub. L. 101-501, §115(1), (2), designated existing provisions as subsec. (a) and inserted “or reduced” after “terminated” in par. (3).

Subsec. (b). Pub. L. 101-501, §115(3), added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 115(1), (2) of Pub. L. 101-501 effective Oct. 1, 1990, and amendment by section 115(3) of Pub. L. 101-501 effective Apr. 1, 1990, see section 1001(a), (b)(2) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### § 9842. Records and audits

(a) Each recipient of financial assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this subchapter.

(c) Each recipient of financial assistance under this subchapter shall—

(1) maintain, and annually submit to the Secretary, a complete accounting of the re-

cipient's administrative expenses (including a detailed statement identifying the amount of financial assistance provided under this subchapter used to pay expenses for salaries and compensation and the amount (if any) of other funds used to pay such expenses);

(2) not later than 30 days after the date of completion of an audit conducted in the manner and to the extent provided in chapter 75 of title 31 (commonly known as the “Single Audit Act of 1984”), submit to the Secretary a copy of the audit management letter and of any audit findings as they relate to the Head Start program; and

(3) provide such additional documentation as the Secretary may require.

(Pub. L. 97-35, title VI, §647, Aug. 13, 1981, 95 Stat. 505; Pub. L. 110-134, §17, Dec. 12, 2007, 121 Stat. 1422.)

#### Editorial Notes

##### AMENDMENTS

2007—Subsec. (c). Pub. L. 110-134 added subsec. (c).

#### § 9843. Technical assistance and training

##### (a) Secretarial training and technical assistance

###### (1) Authority

From the funds provided under section 9835(a)(2)(C)(i) of this title, the Secretary shall provide, directly or through grants, contracts, or other agreements or arrangements as the Secretary considers appropriate, technical assistance and training for Head Start programs for the purposes of improving program quality and helping prepare children to succeed in school.

###### (2) Process

The process for determining the technical assistance and training activities to be carried out under this section shall—

(A) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent practicable; and

(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

###### (3) Activities

In providing training and technical assistance and for allocating resources for such assistance under this section, the Secretary shall—

(A) give priority consideration to—

(i) activities to correct program and management deficiencies identified through reviews carried out pursuant to section 9836a(c) of this title (including the provision of assistance to local programs in the development of quality improvement plans under section 9836a(d)(2) of this title);

(ii) assisting Head Start agencies in ensuring the school readiness of children; and

(iii) activities that supplement those funded with amounts provided under section 9835(a)(5)(B) of this title to address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities<sup>1</sup> and non-classroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills; and (B) to the maximum extent practicable—

(i) assist Head Start agencies in the development of collaborative initiatives with States and other entities within the States, to foster effective professional development systems for early childhood education and development services;

(ii) provide technical assistance and training, either directly or through a grant, contract, or cooperative agreement with an entity that has experience in the development and operation of successful family literacy services programs, for the purpose of—

(I) assisting Head Start agencies providing family literacy services, in order to improve the quality of such family literacy services; and

(II) enabling those Head Start agencies that demonstrate effective provision of family literacy services, based on improved outcomes for children and their parents, to provide technical assistance and training to other Head Start agencies and to service providers that work in collaboration with such agencies to provide family literacy services;

(iii) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessments, including the needs of homeless children and their families, and in conducting self-assessments;

(iv) assist Head Start agencies and programs in developing and implementing full-working-day and full calendar year programs where community need is clearly identified and making the transition to such programs, with particular attention to involving parents and programming for children throughout the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children;

(v) assist Head Start agencies in better serving the needs of families with very young children, including providing support and program planning and implementation assistance for Head Start agencies that apply to serve or are serving additional infants and toddlers, in accordance with section 9840(a)(5) of this title;

(vi) assist Head Start agencies and programs in the development of sound man-

agement practices, including financial management procedures;

(vii) assist in efforts to secure and maintain adequate facilities for Head Start programs;

(viii) assist Head Start agencies in developing innovative program models, including mobile and home-based programs;

(ix) provide support for Head Start agencies (including policy councils and policy committees) that meet the standards described in section 9836a(a) of this title but that have, as documented by the Secretary through reviews conducted pursuant to section 9836a(c) of this title, programmatic, quality, and fiscal issues to address;

(x) assist Head Start agencies and programs in improving outreach to, increasing program participation of, and improving the quality of services available to meet the unique needs of—

(I) homeless children;

(II) limited English proficient children and their families, particularly in communities that have experienced a large percentage increase in the population of limited English proficient individuals, as measured by the Bureau of the Census; and

(III) children with disabilities, particularly if such program's enrollment opportunities or funded enrollment for children with disabilities is less than 10 percent;

(xi) assist Head Start agencies and programs to increase the capacity of classroom staff to meet the needs of eligible children in Head Start classrooms that are serving both children with disabilities and children without disabilities;

(xii) assist Head Start agencies and programs to address the unique needs of programs located in rural communities, including—

(I) removing barriers related to the recruitment and retention of Head Start teachers in rural communities;

(II) developing innovative and effective models of professional development for improving staff qualifications and skills for staff living in rural communities;

(III) removing barriers related to outreach efforts to eligible families in rural communities;

(IV) removing barriers to parent involvement in Head Start programs in rural communities;

(V) removing barriers to providing home visiting services in rural communities; and

(VI) removing barriers to obtaining health screenings for Head Start participants in rural communities;

(xiii) provide training and technical assistance to members of governing bodies, policy councils, and, as appropriate, policy committees, to ensure that the members can fulfill their functions;

(xiv) provide activities that help ensure that Head Start programs have qualified

<sup>1</sup> So in original. Probably should be followed by a closing parenthesis.

staff who can promote prevention of childhood obesity by integrating developmentally appropriate research-based initiatives that stress the importance of physical activity and healthy, nutritional choices in daily classroom and family routines;

(xv) assist Indian Head Start agencies to provide on-site and off-site training to staff, using approaches that identify and enhance the positive resources and strengths of Indian children and families, to improve parent and family engagement and staff development, particularly with regard to child and family development; and

(xvi) assisting Head Start agencies in selecting and using the measures described in section 9836a(b) of this title.

**(b) Additional support**

The Secretary shall provide, either directly or through grants, contracts or other arrangements, funds from section 9835(a)(2)(C)(i)(II)(cc) of this title to—

(1) support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood education and development programs; and

(2) support training for personnel—

(A) providing services to limited English proficient children and their families (including services to promote the acquisition of the English language);

(B) providing services to children determined to be abused or neglected or children referred by or receiving child welfare services;

(C) in helping children cope with community violence;

(D) to recognize common health, including mental health, problems in children for appropriate referral;

(E) to address the needs of children with disabilities and their families;

(F) to address the needs of migrant and seasonal farmworker families; and

(G) to address the needs of homeless families.

**(c) Outreach**

The Secretary shall develop and implement a program of outreach to recruit and train professionals from diverse backgrounds to become Head Start teachers in order to reflect the communities in which Head Start children live and to increase the provision of quality services and instruction to children with diverse backgrounds.

**(d) Funds to agencies**

Funds made available under section 9835(a)(2)(C)(i)(II)(aa) of this title shall be used by a Head Start agency to provide high-quality, sustained, and intensive training and technical assistance as follows:

(1) For 1 or more of the following:

(A) Activities that ensure that Head Start programs meet or exceed the standards described in section 9836a(a)(1) of this title.

(B) Activities that ensure that Head Start programs have adequate numbers of trained, qualified staff who have skills in working with children and families, including children and families who are limited English proficient and children with disabilities and their families.

(C) Activities to improve the management and implementation of Head Start services and systems, including direct training for expert consultants working with staff.

(D) Activities that help ensure that Head Start programs have qualified staff who can promote language skills and literacy growth of children and who can provide children with a variety of skills that have been identified as predictive of later reading achievement, school success, and the skills, knowledge, abilities, development, and progress described in section 9836a(a)(1)(B)(ii) of this title.

(E) Activities to improve staff qualifications and to assist with the implementation of career development programs and to encourage the staff to continually improve their skills and expertise, including developing partnerships with programs that recruit, train, place, and support college students in Head Start centers to deliver an innovative early learning program to preschool children.

(F) Activities that help local programs ensure that the arrangement, condition, and implementation of the learning environments in Head Start programs are conducive to providing effective program services to children and families.

(G) Activities to provide training necessary to improve the qualifications of Head Start staff and to support staff training, child counseling, health services, and other services necessary to address the needs of children enrolled in Head Start programs, including children from families in crises, children who experience chronic violence or homelessness, children who experience substance abuse in their families, and children under 3 years of age, where applicable.

(H) Activities to provide classes or in-service-type programs to improve or enhance parenting skills, job skills, and adult and family literacy, including financial literacy, or training to become a classroom aide or bus driver in a Head Start program.

(I) Additional activities deemed appropriate to the improvement of Head Start programs, as determined by the technical assistance and training plans of the Head Start agencies.

(2) To support enhanced early language and literacy development of children in Head Start programs, and to provide the children with high-quality oral language skills and with environments that are rich in literature in which to acquire language and early literacy skills. Each Head Start agency, in consultation with the State-based training and technical assistance system, as appropriate, shall ensure that—

(A) all of the agency's Head Start teachers receive ongoing training in language and

emergent literacy (referred to in this subsection as “literacy training”), including appropriate curricula and assessment to improve instruction and learning;

(B) such literacy training shall include training in methods to promote vocabulary development and phonological awareness (including phonemic awareness) in a developmentally, culturally, and linguistically appropriate manner and support children’s development in their native language;

(C) the literacy training shall include training in how to work with parents to enhance positive language and early literacy development at home;

(D) the literacy training shall include specific methods to best address the needs of children who are limited English proficient;

(E) the literacy training shall include training on how to best address the language and literacy needs of children with disabilities, including training on how to work with specialists in language development; and

(F) the literacy training shall be tailored to the early childhood literacy background and experience of the teachers involved;

except that funds made available under section 9835(a)(2)(C)(i) of this title shall not be used for long-distance travel expenses for training activities available locally or regionally or for training activities substantially similar to locally or regionally available training activities.

**(e) State-based training and technical assistance system**

For the purposes of delivering a State-based training and technical assistance system (which may include a consortium of 2 or more States within a region) or a national system in the case of migrant or seasonal Head Start and Indian Head Start programs, as described in section 9835(a)(2)(C)(i)(II)(bb) of this title, that will meet the needs of local grantees, as determined by such grantees, and provide high-quality, sustained, and intensive training and technical assistance to Head Start agencies and programs in order to improve their capacity to deliver services that meet or exceed the standards described in section 9836a(a)(1) of this title, the Secretary shall—

(1) enter into contracts in each State with 1 or more entities that have a demonstrated expertise in supporting the delivery of high-quality early childhood education and development programs, except that contracts for a consortium of 2 or more States within a geographic region may be entered into if such a system is more appropriate to better meet the needs of local grantees within a region, as determined by such grantees;

(2) ensure that the entities described in subparagraph (1) determine the types of services to be provided through consultation with—

(A) local Head Start agencies (including Indian Head Start agencies and migrant or seasonal Head Start agencies, as appropriate);

(B) the State Head Start collaboration office; and

(C) the State Head Start Association;

(3) encourage States to supplement the funds authorized in section 9835(a)(2)(C)(i)(II)(bb) of this title with Federal, State, or local funds other than funds made available under this subchapter, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood education and development programs within a State;

(4) provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than 90 days after the end of the fiscal year, summarizing the funding for such contracts and the activities carried out thereunder;

(5) periodically evaluate the effectiveness of the delivery of services in each State in promoting program quality; and

(6) ensure that in entering into such contracts as described in paragraph (1), such entities will address the needs of grantees in both urban and rural communities.

**(f) Indoor air quality**

The Secretary shall consult with appropriate Federal agencies and other experts, as appropriate, on issues of air quality related to children’s health and inform Head Start agencies of existing programs or combination of programs that provide methods for improving indoor air quality.

**(g) Career advancement partnership program**

**(1) Authority**

From amounts allocated under section 9835(a)(2)(C) of this title the Secretary is authorized to award demonstration grants, for a period of not less than 5 years, to historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities—

(A) to implement education programs that increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are earned by Head Start agency staff members, parents of children served by such agencies, and members of the communities involved;

(B) to provide assistance for stipends and costs related to tuition, fees, and books for enrolling Head Start agency staff members, parents of children served by such an agency, and members of the communities involved in courses required to complete the degree and certification requirement to become teachers in early childhood education and related fields;

(C) to develop program curricula to promote high-quality services and instruction to children with diverse backgrounds, including—

(i) in the case of historically Black colleges and universities, to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of African American children;

(ii) in the case of Hispanic-serving institutions, programs to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of Hispanic children, including programs to develop the linguistic skills and expertise needed to teach in programs serving a large number of children with limited English proficiency; and

(iii) in the case of Tribal Colleges and Universities, to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of Indian children, including programs concerning tribal culture and language;

(D) to provide other activities to upgrade the skills and qualifications of educational personnel to meet the professional standards in subsection (a) to better promote high-quality services and instruction to children and parents from populations served by historically Black colleges and universities, Hispanic-serving institutions, or Tribal Colleges and Universities;

(E) to provide technology literacy programs for Indian Head Start agency staff members and families of children served by such agency; and

(F) to develop and implement the programs described under subparagraph (A) in technology-mediated formats, including through such means as distance learning and use of advanced technology, as appropriate.

## (2) Other assistance

The Secretary shall, using resources within the Department of Health and Human Services—

(A) provide appropriate technical assistance to historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities receiving grants under this section, including coordinating with the White House Initiative on historically Black colleges and universities; and

(B) ensure that the American Indian Programs Branch of the Office of Head Start of the Administration for Children and Families of the Department of Health and Human Services can effectively administer the programs under this section and provide appropriate technical assistance to Tribal Colleges and Universities under this section.

## (3) Application

Each historically Black college or university, Hispanic-serving institution, or Tribal College or University desiring a grant under this section shall submit an application, in partnership with at least 1 Head Start agency enrolling large numbers of students from the populations served by historically Black colleges and universities, Hispanic-serving institutions, or Tribal Colleges and Universities, to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a certification that the institution of higher education has

established a formal partnership with 1 or more Head Start agencies for the purposes of conducting the activities described in paragraph (1).

## (4) Definitions

In this subsection:

(A) The term “Hispanic-serving institution” has the meaning given such term in section 1101a of title 20.

(B) The term “historically Black college or university” has the meaning given the term “part B institution” in section 1061(2) of title 20.

(C) The term “Tribal College or University” has the meaning given such term in section 1059c(b) of title 20.

## (5) Teaching requirement

A student at an institution receiving a grant under this subsection who receives assistance under a program funded under this subsection shall teach in a center-based Head Start program for a period of time equivalent to the period for which they received assistance or shall repay such assistance.

(Pub. L. 97–35, title VI, § 648, Aug. 13, 1981, 95 Stat. 505; Pub. L. 98–558, title I, § 106, Oct. 30, 1984, 98 Stat. 2879; Pub. L. 101–501, title I, § 116(a), Nov. 3, 1990, 104 Stat. 1232; Pub. L. 102–586, § 7(b), Nov. 4, 1992, 106 Stat. 5035; Pub. L. 103–252, title I, § 114, May 18, 1994, 108 Stat. 642; Pub. L. 105–285, title I, § 114, Oct. 27, 1998, 112 Stat. 2721; Pub. L. 110–134, § 18, Dec. 12, 2007, 121 Stat. 1423; Pub. L. 114–95, title IX, § 9215(nn)(5), Dec. 10, 2015, 129 Stat. 2177.)

## Editorial Notes

### AMENDMENTS

2015—Subsec. (a)(3)(A)(iii). Pub. L. 114–95 struck out “, and for activities described in section 6372(d) of title 20,” after “children with disabilities”.

2007—Pub. L. 110–134 amended section generally. Prior to amendment, section related to, in subsec. (a), technical assistance and personnel training, in subsec. (b), consideration of local needs, in subsec. (c), prioritization of resource allocation, in subsec. (d), training in performing and visual arts and electronic media, and, in subsec. (e), child development and assessment program.

1998—Subsec. (b)(3). Pub. L. 105–285, § 114(a)(1), added par. (3).

Subsec. (c)(1). Pub. L. 105–285, § 114(a)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 9836a(c) of this title (including the provision of assistance to local programs in the development of quality improvement plans under section 9836a(d)(2) of this title);”.

Subsec. (c)(2). Pub. L. 105–285, § 114(a)(2)(B), inserted “supplement amounts provided under section 9835(a)(3)(C)(ii) of this title in order to” after “(2)”.

Subsec. (c)(3). Pub. L. 105–285, § 114(a)(2)(G), added par. (3). Former par. (3) redesignated (5).

Subsec. (c)(4). Pub. L. 105–285, § 114(a)(2)(G), added par. (4). Former par. (4) redesignated (6).

Pub. L. 105–285, § 114(a)(2)(C), inserted “and implementing” after “developing” and substituted “the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children” for “a longer day” before semicolon.

Subsec. (c)(5), (6). Pub. L. 105–285, § 114(a)(2)(F), redesignated pars. (3) and (4) as (5) and (6), respectively.

Former pars. (5) and (6) redesignated (7) and (8), respectively.

Subsec. (c)(7). Pub. L. 105-285, § 114(a)(2)(F), redesignated par. (5) as (7). Former par. (7) redesignated (9).

Pub. L. 105-285, § 114(a)(2)(D), struck out “and” at end.

Subsec. (c)(8). Pub. L. 105-285, § 114(a)(2)(F), redesignated par. (6) as (8). Former par. (8) redesignated (10).

Pub. L. 105-285, § 114(a)(2)(E), substituted “; and” for period at end.

Subsec. (c)(9), (10). Pub. L. 105-285, § 114(a)(2)(F), redesignated pars. (7) and (8) as (9) and (10), respectively.

Subsec. (c)(11). Pub. L. 105-285, § 114(a)(2)(H), added par. (11).

Subsec. (e). Pub. L. 105-285, § 114(b), inserted “(including services to promote the acquisition of the English language)” after “non-English language background children”.

1994—Pub. L. 103-252, § 114(1), substituted “Technical assistance and training” for “Technical assistance, training, and staff qualifications” in section catchline.

Subsec. (a). Pub. L. 103-252, § 114(3)(A), redesignated as subsec. (e) the last sentence which read as follows: “The Secretary shall provide, either directly or through grants or other arrangements, funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children.”

Pub. L. 103-252, § 114(2), substituted “(2) training for specialized or other personnel needed in connection with Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c) of this section. The Secretary shall provide, either directly or through grants or other arrangements,” for “(2) training for specialized or other personnel needed in connection with Head Start programs, including”.

Subsec. (b). Pub. L. 103-252, § 114(4), (5), added subsec. (b) and struck out former subsec. (b) which related to teacher qualifications and waiver of same.

Subsec. (c). Pub. L. 103-252, § 114(4), (5), added subsec. (c) and struck out former subsec. (c) which related to Secretary developing systematic approach to training Head Start personnel and reporting on such approach to Congress.

Subsec. (d). Pub. L. 103-252, § 114(6), inserted at end “Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.”

Subsec. (e). Pub. L. 103-252, § 114(3), redesignated last sentence of subsec. (a) as (e).

1992—Subsec. (a)(2). Pub. L. 102-586, § 7(b)(1), substituted “funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled” for “a centralized child development training and national assessment program which may be administered at the State or local level leading to recognized credentials for such personnel, training for personnel providing services to non-English language background children, and resource access projects for personnel of handicapped”.

Subsecs. (c), (d). Pub. L. 102-586, § 7(b)(2), added subsecs. (c) and (d).

1990—Pub. L. 101-501 substituted “Technical assistance, training, and staff qualifications” for “Technical

assistance and training” in section catchline, designated existing provisions as subsec. (a), inserted “training for personnel providing services to non-English language background children,” after “such personnel,” in cl. (2), and added subsec. (b).

1984—Pub. L. 98-558 substituted “shall” for “may” and inserted provision including a centralized child development training and national assessment program.

#### Statutory Notes and Related Subsidiaries

##### 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 Title 20, Education.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

##### HEAD START TRAINING IMPROVEMENT

Pub. L. 102-586, § 7(a), Nov. 4, 1992, 106 Stat. 5034, provided that: “It is the purpose of this section—

“(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

“(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

“(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

“(4) to allow the use of training funds for creative approaches to learning for children.”

#### § 9843a. Staff qualifications and development

##### (a) Classroom teachers

##### (1) Professional requirements

The Secretary shall ensure that each Head Start classroom in a center-based program is assigned 1 teacher who has demonstrated competency to perform functions that include—

(A) planning and implementing learning experiences that advance the intellectual and physical development of children, including improving the readiness of children for school by developing their literacy, phonemic, and print awareness, their understanding and use of language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books, their understanding of early math and early science, their problem-solving abilities, and their approaches to learning;

(B) establishing and maintaining a safe, healthy learning environment;

(C) supporting the social and emotional development of children; and

(D) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families.

**(2) Degree requirements****(A) Head Start teachers**

The Secretary shall ensure that not later than September 30, 2013, at least 50 percent of Head Start teachers nationwide in center-based programs have—

- (i) a baccalaureate or advanced degree in early childhood education; or
- (ii) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children.

**(B) Additional staff**

The Secretary shall ensure that, not later than September 30, 2013, all—

- (i) Head Start education coordinators, including those that serve as curriculum specialists, nationwide in center-based programs—

- (I) have the capacity to offer assistance to other teachers in the implementation and adaptation of curricula to the group and individual needs of children in a Head Start classroom; and

- (II) have—

- (aa) a baccalaureate or advanced degree in early childhood education; or
- (bb) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; and

- (ii) Head Start teaching assistants nationwide in center-based programs have—

- (I) at least a child development associate credential;

- (II) enrolled in a program leading to an associate or baccalaureate degree; or

- (III) enrolled in a child development associate credential program to be completed within 2 years.

**(C) Progress****(i) Implementation**

The Secretary shall—

- (I) require Head Start agencies to—

- (aa) describe continuing progress each year toward achieving the goals described in subparagraphs (A) and (B); and

- (bb) annually submit to the Secretary a report indicating the number and percentage of classroom personnel described in subparagraphs (A) and (B) in center-based programs with child development associate credentials or associate, baccalaureate, or advanced degrees;

- (II) compile and submit a summary of all program reports described in subclause (I)(bb) to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate; and

- (III) not impose any penalties or sanctions on any individual Head Start agency, program, or staff in the monitoring

of local agencies and programs under this subchapter not meeting the requirements of subparagraph (A) or (B).

**(D) Construction**

In this paragraph a reference to a Head Start agency, or its program, services, facility, or personnel, shall not be considered to be a reference to an Early Head Start agency, or its program, services, facility, or personnel.

**(3) Alternative credentialing and degree requirements**

The Secretary shall ensure that, for center-based programs, each Head Start classroom that does not have a teacher who meets the qualifications described in clause (i) or (ii) of paragraph (2)(A) is assigned one teacher who has the following during the period specified:

- (A) Through September 30, 2011—

- (i) a child development associate credential that is appropriate to the age of children being served in center-based programs;

- (ii) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

- (iii) an associate degree in early childhood education;

- (iv) an associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or

- (v) a baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development and support from Teach For America's professional staff.

- (B) As of October 1, 2011—

- (i) an associate degree in early childhood education;

- (ii) an associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or

- (iii) a baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development and support from Teach For America's professional staff.

**(4) Waiver**

On request, the Secretary shall grant—

- (A) through September 30, 2011, a 180-day waiver ending on or before September 30, 2011, of the requirements of paragraph (3)(A) for a Head Start agency that can demonstrate that the agency has attempted un-

successfully to recruit an individual who has the qualifications described in any of clauses (i) through (iv) of paragraph (3)(A) with respect to an individual who—

(i) is enrolled in a program that grants a credential, certificate, or degree described in clauses (i) through (iv) of paragraph (3)(A); and

(ii) will receive such credential, certificate, or degree under the terms of such program not later than 180 days after beginning employment as a teacher with such agency; and

(B) as of October 1, 2011, a 3-year waiver of the requirements of paragraph (3)(B) for a Head Start agency that can demonstrate that—

(i) the agency has attempted unsuccessfully to recruit an individual who has the qualifications described in clause (i) or (ii) of such paragraph, with respect to an individual who is enrolled in a program that grants a degree described in clause (i) or (ii) of such paragraph and will receive such degree in a reasonable time; and

(ii) each Head Start classroom has a teacher who has, at a minimum—

(I) a child development associate credential that is appropriate to the age of children being served in center-based programs; or

(II) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential.

#### **(5) Teacher in-service requirement**

Each Head Start teacher shall attend not less than 15 clock hours of professional development per year. Such professional development shall be high-quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and regularly evaluated by the program for effectiveness.

#### **(6) Service requirements**

The Secretary shall establish requirements to ensure that, in order to enable Head Start agencies to comply with the requirements of paragraph (2)(A), individuals who receive financial assistance under this subchapter to pursue a degree described in paragraph (2)(A) shall—

(A) teach or work in a Head Start program for a minimum of 3 years after receiving the degree; or

(B) repay the total or a prorated amount of the financial assistance received based on the length of service completed after receiving the degree.

#### **(7) Use of funds**

The Secretary shall require that any Federal funds provided directly or indirectly to comply with paragraph (2)(A) shall be used toward degrees awarded by an institution of higher education, as defined by section 1001 or 1002 of title 20.

### **(b) Mentor teachers**

#### **(1) “Mentor teacher” defined; function**

For purposes of this subsection, the term “mentor teacher” means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

#### **(2) Requirement**

In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff or that are experiencing difficulty in meeting applicable education standards;

(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies of mentor teachers in Head Start programs.

### **(c) Family service workers**

To improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

(1) review, and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

(2) review, and as necessary, revise or develop maximum caseload requirements, as suggested by best practices;

(3) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services;

(4) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide; and

(5) promote the use of appropriate strategies to meet the needs of special populations (including populations of limited English proficient children).

### **(d) Head Start Fellowships**

#### **(1) Authority**

The Secretary may establish a program of fellowships, to be known as “Head Start Fel-

lowships”, in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as “Head Start Fellows”, who are staff in local Head Start programs or other individuals working in the field of child development and family services.

**(2) Purpose**

The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

**(3) Assignments of Fellows**

**(A) Placement sites**

Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

- (i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);
- (ii) in local Head Start agencies and programs;
- (iii) in institutions of higher education;
- (iv) in public or private entities and organizations concerned with services to children and families; and
- (v) in other appropriate settings.

**(B) Limitation for Fellows other than Head Start employees**

A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

**(C) No placement in lobbying organizations**

Head Start Fellowship positions may not be located in any agency (including a center) whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

**(4) Selection of Fellows**

Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

**(5) Duration**

Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

**(6) Authorized expenditures**

From amounts made available under section 9835(a)(2)(E) of this title, the Secretary is authorized to make expenditures of not to exceed \$1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

**(7) Status of Fellows**

Except as otherwise provided in this paragraph, Head Start Fellows shall not be consid-

ered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18 and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

**(8) Regulations**

The Secretary shall promulgate regulations to carry out this subsection.

**(e) Model staffing plans**

Not later than 1 year after May 18, 1994, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.

**(f) Professional development plans**

Each Head Start agency and program shall create, in consultation with an employee, a professional development plan for all full-time Head Start employees who provide direct services to children and shall ensure that such plans are regularly evaluated for their impact on teacher and staff effectiveness. The agency and the employee shall implement the plan to the extent feasible and practicable.

**(g) Staff recruitment and selection procedures**

Before a Head Start agency employs an individual, such agency shall—

- (1) conduct an interview of such individual;
- (2) verify the personal and employment references provided by such individual; and
- (3) obtain—
  - (A) a State, tribal, or Federal criminal record check covering all jurisdictions where the grantee provides Head Start services to children;
  - (B) a State, tribal, or Federal criminal record check as required by the law of the jurisdiction where the grantee provides Head Start services; or
  - (C) a criminal record check as otherwise required by Federal law.

(Pub. L. 97-35, title VI, § 648A, as added Pub. L. 103-252, title I, § 115, May 18, 1994, 108 Stat. 643; amended Pub. L. 105-285, title I, § 115, Oct. 27, 1998, 112 Stat. 2722; Pub. L. 110-134, § 19, Dec. 12, 2007, 121 Stat. 1430.)

**Editorial Notes**

**AMENDMENTS**

2007—Subsec. (a). Pub. L. 110-134, § 19(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to qualification and development requirements for Head Start teachers in center-based programs and gave Secretary limited authority to waive alternative credentialing requirements.

Subsec. (c). Pub. L. 110-134, §19(2), amended subsec. (c) generally. Prior to amendment, text of subsec. (c) read as follows: “In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

“(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

“(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

“(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.”

Subsec. (d)(3)(C). Pub. L. 110-134, §19(3)(A), inserted “(including a center)” after “agency”.

Subsec. (d)(6). Pub. L. 110-134, §19(3)(B), substituted “amounts made available under section 9835(a)(2)(E) of this title” for “amounts appropriated under this subchapter and allotted under section 9835(a)(2)(D) of this title”.

Subsecs. (f), (g). Pub. L. 110-134, §19(4), added subsecs. (f) and (g).

1998—Subsec. (a). Pub. L. 105-285, §115(1), amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) required Secretary to ensure that not later than Sept. 30, 1996, each Head Start classroom in a center-based program was assigned a teacher with certain specified credentials and gave Secretary limited authority to waive that requirement.

Subsec. (b)(2)(B). Pub. L. 105-285, §115(2), substituted “staff or that are” for “staff, that are” and struck out “, or that lack staff of a similar cultural background to that of the participating children and their families” before semicolon.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

#### § 9844. Research, demonstrations, and evaluation

##### (a) In general

###### (1) Requirement; general purposes

The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

(B) use the Head Start programs to develop, test, and disseminate new ideas based on existing scientifically valid research, for addressing the needs of low-income preschool children (including children with disabilities, homeless children, children who have been abused or neglected, and children in foster care) and their families and communities (including demonstrations of inno-

vative non-center-based program models such as home-based and mobile programs), and otherwise to further the purposes of this subchapter.

##### (2) Plan

The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

##### (b) Conduct of research, demonstration, and evaluation activities

The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

(4) may require Head Start agencies to provide for independent evaluations;

(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

##### (c) Consultation and collaboration

In carrying out activities under this section, the Secretary shall—

(1) consult with—

(A) individuals from relevant academic disciplines;

(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1001 of title 20, located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

**(d) Specific objectives**

The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

- (1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;
- (2) establish evaluation methods that measure the effectiveness and impact of family literacy services program models, including models for the integration of family literacy services with Head Start services;
- (3) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;
- (4) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;
- (5)(A) identify successful strategies that promote good oral health and provide effective linkages to quality dental services through pediatric dental referral networks, for infants and toddlers participating in Early Head Start programs and children participating in other Head Start programs; and  
(B) identify successful strategies that promote good vision health through vision screenings for such infants, toddlers, and children, and referrals for appropriate followup care for those identified as having a vision problem;
- (6) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education and development or services<sup>1</sup> programs and with other appropriate control groups;
- (7) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;
- (8) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities;
- (9) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter; and
- (10)(A) contribute to understanding the impact of Head Start services delivered in classrooms which include both children with disabilities and children without disabilities, on all of the children; and  
(B) disseminate promising practices for increasing the availability and quality of such services and such classrooms.

**(e) Longitudinal studies**

In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other early childhood education and development services or programs, and with other appropriate control groups.

**(f) Ownership of results**

The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.

**(g) National Head Start impact research****(1) Expert panel****(A) In general**

The Secretary shall appoint an independent panel consisting of experts in program evaluation and research, education, and early childhood programs—

- (i) to review, and make recommendations on, the design and plan for the research (whether conducted as a single assessment or as a series of assessments) described in paragraph (2), within 1 year after October 27, 1998;
- (ii) to maintain and advise the Secretary regarding the progress of the research; and
- (iii) to comment, if the panel so desires, on the interim and final research reports submitted under paragraph (7).

**(B) Travel expenses**

The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, the Secretary may accept the voluntary and uncompensated services of members of the panel.

**(2) General authority**

After reviewing the recommendations of the expert panel, the Secretary shall make a grant to, or enter into a contract or cooperative agreement with, an organization to conduct independent research that provides a national analysis of the impact of Head Start programs. The Secretary shall ensure that the organization shall have expertise in program evaluation, and research, education, and early childhood programs.

**(3) Designs and techniques**

The Secretary shall ensure that the research uses rigorous methodological designs and

<sup>1</sup> So in original. Probably should be “services or”.

techniques (based on the recommendations of the expert panel), including longitudinal designs, control groups, nationally recognized standardized measures, and random selection and assignment, as appropriate. The Secretary may provide that the research shall be conducted as a single comprehensive assessment or as a group of coordinated assessments designed to provide, when taken together, a national analysis of the impact of Head Start programs.

#### **(4) Programs**

The Secretary shall ensure that the research focuses primarily on Head Start programs that operate in the 50 States, the Commonwealth of Puerto Rico, or the District of Columbia and that do not specifically target special populations.

#### **(5) Analysis**

The Secretary shall ensure that the organization conducting the research—

(A)(i) determines if, overall, the Head Start programs have impacts consistent with their primary goal of increasing the social competence of children, by increasing the everyday effectiveness of the children in dealing with their present environments and future responsibilities, and increasing their school readiness;

(ii) considers whether the Head Start programs—

(I) enhance the growth and development of children in cognitive, emotional, and physical health areas;

(II) strengthen families as the primary nurturers of their children; and

(III) ensure that children attain school readiness; and

(iii) examines—

(I) the impact of the Head Start programs on increasing access of children to such services as educational, health, and nutritional services, and linking children and families to needed community services; and

(II) how receipt of services described in subclause (I) enriches the lives of children and families participating in Head Start programs;

(B) examines the impact of Head Start programs on participants on the date the participants leave Head Start programs, at the end of kindergarten and at the end of first grade (whether in public or private school), by examining a variety of factors, including educational achievement, referrals for special education or remedial course work, and absenteeism;

(C) makes use of random selection from the population of all Head Start programs described in paragraph (4) in selecting programs for inclusion in the research; and

(D) includes comparisons of individuals who participate in Head Start programs with control groups (including comparison groups) composed of—

(i) individuals who participate in other early childhood programs (such as public or private preschool programs and day care); and

(ii) individuals who do not participate in any other early childhood program.

#### **(6) Consideration of sources of variation**

In designing the research, the Secretary shall, to the extent practicable, consider addressing possible sources of variation in impact of Head Start programs, including variations in impact related to such factors as—

(A) Head Start program operations;

(B) Head Start program quality;

(C) the length of time a child attends a Head Start program;

(D) the age of the child on entering the Head Start program;

(E) the type of organization (such as a local educational agency or a community action agency) providing services for the Head Start program;

(F) the number of hours and days of program operation of the Head Start program (such as whether the program is a full-working-day, full calendar year program, a part-day program, or a part-year program); and

(G) other characteristics and features of the Head Start program (such as geographic location, location in an urban or a rural service area, or participant characteristics), as appropriate.

#### **(7) Reports**

##### **(A) Submission of interim reports**

The organization shall prepare and submit to the Secretary two interim reports on the research. The first interim report shall describe the design of the research, and the rationale for the design, including a description of how potential sources of variation in impact of Head Start programs have been considered in designing the research. The second interim report shall describe the status of the research and preliminary findings of the research, as appropriate.

##### **(B) Submission of final report**

The organization shall prepare and submit to the Secretary a final report containing the findings of the research.

##### **(C) Transmittal of report to Congress**

Not later than September 30, 2009, the Secretary shall transmit the final report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

#### **(8) Definition**

In this subsection, the term “impact”, used with respect to a Head Start program, means a difference in an outcome for a participant in the program that would not have occurred without the participation in the program.

#### **(h) Limited English proficient children**

##### **(1) Study**

Not later than 1 year after December 12, 2007, the Secretary shall conduct a study on the status of limited English proficient children and their families participating in Head Start programs (including Early Head Start programs).

**(2) Report**

The Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, not later than September 30, 2010, a report containing the results of the study, including information on—

(A) the demographics of limited English proficient children from birth through age 5, including the number of such children receiving Head Start services and Early Head Start services, and the geographic distribution of children described in this subparagraph;

(B) the nature of the Head Start services and of the Early Head Start services provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services;

(C) procedures in Head Start programs and Early Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which such programs meet the requirements of section 9837a of this title for limited English proficient children;

(D) the qualifications and training provided to Head Start teachers and Early Head Start teachers who serve limited English proficient children and their families;

(E) the languages in which Head Start teachers and Early Head Start teachers are fluent, in relation to the population, and instructional needs, of the children served;

(F) the rate of progress made by limited English proficient children and their families in Head Start programs and in Early Head Start programs, including—

(i) the rate of progress made by limited English proficient children toward meeting the additional educational standards described in section 9836a(a)(1)(B)(ii) of this title while enrolled in such programs;

(ii) a description of the type of assessment or assessments used to determine the rate of progress made by limited English proficient children;

(iii) the correlation between such progress and the type and quality of instruction and educational programs provided to limited English proficient children; and

(iv) the correlation between such progress and the health and family services provided by such programs to limited English proficient children and their families; and

(G) the extent to which Head Start programs and Early Head Start programs make use of funds under section 9835(a)(2)(D) of this title to improve the quality of such services provided to limited English proficient children and their families.

**(i) Research and evaluation activities relevant to diverse communities**

For purposes of conducting the study described in subsection (h), activities described in

section 9835(l)(5)(A) of this title, and other research and evaluation activities relevant to limited English proficient children and their families, migrant and seasonal farmworker families, and other families from diverse populations served by Head Start programs, the Secretary shall award, on a competitive basis, funds from amounts made available under section 9835(a)(2)(D) of this title to 1 or more organizations with a demonstrated capacity for serving and studying the populations involved.

**(j) Review of assessments****(1) Application of study**

When the study on Developmental Outcomes and Assessments for Young Children by the National Academy of Sciences is made available to the Secretary, the Secretary shall—

(A) integrate the results of the study, as appropriate and in accordance with paragraphs (2) and (3), into each assessment used in Head Start programs; and

(B) use the results of the study to develop, inform, and revise as appropriate the standards and measures described in section 9836a of this title, consistent with section 9836a(a)(2)(C)(ii) of this title.

**(2) Inform and revise**

In informing and revising any assessment used in the Head Start programs, the Secretary shall—

(A) receive recommendations from the Panel on Developmental Outcomes and Assessments for Young Children of the National Academy of Sciences; and

(B) with respect to the development or refinement of such assessment, ensure—

(i) consistency with relevant, nationally recognized professional and technical standards;

(ii) validity and reliability for all purposes for which assessments under this subchapter are designed and used;

(iii) developmental and linguistic appropriateness of such assessments for children assessed, including children who are limited English proficient; and

(iv) that the results can be used to improve the quality of, accountability of, and training and technical assistance in, Head Start programs.

**(3) Additional requirements**

The Secretary, in carrying out the process described in paragraph (2), shall ensure that—

(A) staff administering any assessments under this subchapter have received appropriate training to administer such assessments;

(B) appropriate accommodations for children with disabilities and children who are limited English proficient are made;

(C) the English and Spanish (and any other language, as appropriate) forms of such assessments are valid and reliable in the languages in which they are administered; and

(D) such assessments are not used to exclude children from Head Start programs.

**(4) Suspended implementation of national reporting system**

The Secretary shall suspend implementation and terminate further development and use of the National Reporting System.

**(k) Indian Head Start study**

The Secretary shall—

(1) work in collaboration with the Head Start agencies that carry out Indian Head Start programs, the Indian Head Start collaboration director, and other appropriate entities, including tribal governments and the National Indian Head Start Directors Association—

(A) to undertake a study or set of studies designed to focus on the American Indian and Alaska Native Head Start-eligible population, with a focus on issues such as curriculum development, availability and need for services, appropriate research methodologies and measures for these populations, and best practices for teaching and educating American Indian and Alaska Native Head Start Children;

(B) to accurately determine the number of children nationwide who are eligible to participate in Indian Head Start programs each year;

(C) to document how many of these children are receiving Head Start services each year;

(D) to the extent practicable, to ensure that access to Indian Head Start programs for eligible children is comparable to access to other Head Start programs for other eligible children; and

(E) to make the funding decisions required in section 9835(a)(4)(D)(ii) of this title, after completion of the studies required in that section, taking into account—

(i) the Federal government's<sup>2</sup> unique trust responsibility to American Indians and Alaska Natives;

(ii) limitations faced by tribal communities in accessing non-Federal sources of funding to supplement Federal funding for early childhood programs; and

(iii) other factors that uniquely and adversely impact children in American Indian and Alaska Native communities such as highly elevated poverty, unemployment and violent crime rates, as well as depressed levels of educational achievement and limited access to non-Federal health, social and educational resources;

(2) in carrying out paragraph (1), consult with the Secretary of Education about the Department of Education's systems for collecting and reporting data about, and maintaining records on, American Indian and Alaska Native students;

(3) not later than 9 months after the effective date of this subsection, publish in the Federal Register a notice of how the Secretary plans to carry out paragraph (1) and shall provide a period for public comment. To the extent practicable, the Secretary shall consider

comments received before submitting a report to the Congress;

(4) not later than 1 year after the effective date of this subsection, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, detailing how the Department of Health and Human Services plans to carry out paragraph (1);

(5) through regulation, ensure the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary, by Head Start agencies that carry out Indian Head Start programs, and by State Directors of Head Start Collaboration, by the Indian Head Start Collaboration Project Director and by other appropriate entities pursuant to this subsection (such regulations shall provide the policies, protections, and rights equivalent to those provided a parent, student, or educational agency or institution under section 1232g of title 20); and

(6) ensure that nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this subsection.

**(l) Migrant and seasonal Head Start program study**

**(1) Data**

In order to increase access to Head Start services for children of migrant and seasonal farmworkers, the Secretary shall work in collaboration with providers of migrant and seasonal Head Start programs, the Secretary of Agriculture, the Secretary of Labor, the Bureau of Migrant Health, and the Secretary of Education to—

(A) collect, report, and share data, within a coordinated system, on children of migrant and seasonal farmworkers and their families, including health records and educational documents of such children, in order to adequately account for the number of children of migrant and seasonal farmworkers who are eligible for Head Start services and determine how many of such children receive the services; and

(B) identify barriers that prevent children of migrant and seasonal farmworkers who are eligible for Head Start services from accessing Head Start services, and develop a plan for eliminating such barriers, including certain requirements relating to tracking, health records, and educational documents, and increasing enrollment.

**(2) Publication of plan**

Not later than 1 year after December 12, 2007, the Secretary shall publish in the Federal Register a notice about how the Secretary plans to implement the activities identified in paragraph (1) and shall provide a period for public comment. To the extent practicable, the Secretary shall consider comments received before implementing any of the activities identified in paragraph (1).

<sup>2</sup> So in original. Probably should be capitalized.

**(3) Report**

Not later than 18 months after December 12, 2007, and annually thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate detailing how the Secretary plans to implement the activities identified in paragraph (1), including the progress made in reaching out to and serving eligible children of migrant and seasonal farmworkers, and information on States where such children are still underserved.

**(4) Protection of confidentiality**

The Secretary shall, through regulation, ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary, by Head Start agencies that carry out migrant or seasonal Head Start programs, by the State director of Head Start Collaboration, and by the Migrant and Seasonal Farmworker Collaboration project Director (such regulations shall provide the policies, protections, and rights equivalent to those provided a parent, student, or educational agency or institution under section 1232g of title 20).

**(5) Rule of construction**

Nothing in this subsection shall be construed to authorize the development of a nationwide database of personally identifiable data, information, or records on individuals involved in studies or other collections of data under this subsection.

**(m) Program emergency preparedness****(1) Purpose**

The purpose of this subsection is to evaluate the emergency preparedness of the Head Start programs, including Early Head Start programs, and make recommendations for how Head Start shall enhance its readiness to respond to an emergency.

**(2) Study**

The Secretary shall evaluate the Federal, State, and local preparedness of Head Start programs, including Early Head Start programs, to respond appropriately in the event of a large-scale emergency, such as the hurricanes Katrina, Rita, and Wilma, the terrorist attacks of September 11, 2001, or other incidents where assistance may be warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**(3) Report to Congress**

Not later than 18 months after December 12, 2007, the Secretary shall prepare and submit to Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the evaluation required under paragraph (2), including—

(A) recommendations for improvements to Federal, State, and local preparedness and response capabilities to large-scale emer-

gencies, including those that were developed in response to hurricanes Katrina, Rita, and Wilma, as they relate to Head Start programs, including Early Head Start programs, and the Secretary's plan to implement such recommendations;

(B) an evaluation of the procedures for informing families of children in Head Start programs about the program protocols for response to a large-scale emergency, including procedures for communicating with such families in the event of a large-scale emergency;

(C) an evaluation of such procedures for staff training on State and local evacuation and emergency protocols; and

(D) an evaluation of procedures for Head Start agencies and the Secretary to coordinate with appropriate Federal, State, and local emergency management agencies in the event of a large scale emergency and recommendations to improve such procedures.

(Pub. L. 97-35, title VI, § 649, Aug. 13, 1981, 95 Stat. 505; Pub. L. 98-558, title I, § 107, Oct. 30, 1984, 98 Stat. 2880; Pub. L. 101-501, title I, § 117(a), Nov. 3, 1990, 104 Stat. 1233; Pub. L. 103-252, title I, § 116, May 18, 1994, 108 Stat. 646; Pub. L. 105-244, title I, § 102(a)(13)(G), Oct. 7, 1998, 112 Stat. 1621; Pub. L. 105-285, title I, § 116, Oct. 27, 1998, 112 Stat. 2723; Pub. L. 110-134, § 20, Dec. 12, 2007, 121 Stat. 1435.)

**Editorial Notes****REFERENCES IN TEXT**

The effective date of this subsection, referred to in subsec. (k)(3), (4), probably means the date of enactment of Pub. L. 110-134, which enacted subsec. (k) of this section and was approved Dec. 12, 2007.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (m)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

**AMENDMENTS**

2007—Subsec. (a)(1)(B). Pub. L. 110-134, § 20(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities (including demonstrations of innovative noncenter-based program models such as home-based and mobile programs), and otherwise to further the purposes of this subchapter.”

Subsec. (d). Pub. L. 110-134, § 20(2)(F), struck out concluding provisions which read as follows: “The Secretary shall ensure that an appropriate entity carries out a study described in paragraph (9), and prepares and submits to the appropriate committees of Congress a report containing the results of the study, not later than September 30, 2002.”

Subsec. (d)(5). Pub. L. 110-134, § 20(2)(E), added par. (5). Former par. (5) redesignated (6).

Pub. L. 110-134, § 20(2)(C), substituted “early childhood education and development or services programs” for “early childhood education, or child development services”.

Subsec. (d)(6), (7). Pub. L. 110-134, § 20(2)(D), redesignated pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 110-134, § 20(2)(D), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Pub. L. 110-134, §20(2)(A), inserted “and” at end.

Subsec. (d)(9). Pub. L. 110-134, §20(2)(B), (D), redesignated par. (8) as (9) and struck out former par. (9) which read as follows: “study the experiences of small, medium, and large States with Head Start programs in order to permit comparisons of children participating in the programs with eligible children who did not participate in the programs, which study—

“(A) may include the use of a data set that existed prior to the initiation of the study; and

“(B) shall compare the educational achievement, social adaptation, and health status of the participating children and the eligible nonparticipating children; and”.

Subsec. (d)(10). Pub. L. 110-134, §20(2)(B), added par. (10) and struck out former par. (10) which provided for using the Survey of Income and Program Participation to conduct certain analyses, the National Longitudinal Survey of Youth to examine certain outcomes, and the Survey of Program Dynamics to begin certain annual reporting.

Subsec. (e)(3). Pub. L. 110-134, §20(3), substituted “early childhood education and development services or programs” for “child care, early childhood education, or child development services”.

Subsec. (g)(7)(C). Pub. L. 110-134, §20(4), amended subpar. (C) generally. Prior to amendment, text read as follows:

“(i) IN GENERAL.—The Secretary shall transmit, to the committees described in clause (ii), the first interim report by September 30, 1999, the second interim report by September 30, 2001, and the final report by September 30, 2003.

“(ii) COMMITTEES.—The committees referred to in clause (i) are the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.”

Subsecs. (h) to (m). Pub. L. 110-134, §20(5), added subsecs. (h) to (m) and struck out former subsec. (h) which related to quality improvement study.

1998—Subsec. (c)(3). Pub. L. 105-244 substituted “section 1001” for “section 1141(a)”.

Subsec. (d). Pub. L. 105-285, §116(1)(E), inserted concluding provisions.

Subsec. (d)(2) to (8). Pub. L. 105-285, §116(1)(C), (D), added par. (2) and redesignated former pars. (2) to (7) as (3) to (8), respectively.

Subsec. (d)(9), (10). Pub. L. 105-285, §116(1)(A), (B), (E), added pars. (9) and (10).

Subsecs. (g), (h). Pub. L. 105-285, §116(2), added subsecs. (g) and (h).

1994—Pub. L. 103-252 substituted “Research, demonstrations, and evaluation” for “Research, demonstration, pilot projects, studies, and reports” in section catchline and amended text generally, substituting provisions requiring Secretary to conduct a research, demonstration, and evaluation program to continually improve Head Start programs and develop innovative ways to further purposes of this subchapter, consult with others on the program, consider longitudinal studies in developing priorities for program, and ensure all products of program become United States property and defining objectives of program, for provisions authorizing the Secretary to provide financial assistance through contracts and grants for research, demonstration or pilot projects to develop new approaches to further purposes of this subchapter, directing Secretary to establish plan for approval of such projects, restricting combination of funds appropriated under this subchapter with other appropriations to make a single grant, requiring Secretary to conduct study of approaches to provide early, continuous, and comprehensive intervention to low-income or at-risk children and study of family day care in compliance with performance standards and to report results of studies to Congress.

1990—Pub. L. 101-501, §117(a)(1), substituted “Research, demonstration, pilot projects, studies, and reports” for “Research, demonstration, and pilot projects” in section catchline.

Subsecs. (d) to (f). Pub. L. 101-501, §117(a)(2), added subsecs. (d) to (f).

1984—Subsec. (c). Pub. L. 98-558 added subsec. (c).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### STUDY OF FULL-DAY AND FULL-YEAR HEAD START PROGRAMS

Pub. L. 103-252, title I, §126, May 18, 1994, 108 Stat. 650, directed Secretary of Health and Human Services to conduct a study of extent to which Head Start programs address the need for Head Start services during a full working day or full calendar year among eligible low-income families with preschool children and to submit a report to Congress not later than Jan. 31, 1997.

### § 9845. Repealed. Pub. L. 103-252, title I, § 117, May 18, 1994, 108 Stat. 648

Section, Pub. L. 97-35, title VI, §650, Aug. 13, 1981, 95 Stat. 505; Pub. L. 101-501, title I, §117(c), Nov. 3, 1990, 104 Stat. 1233, directed Secretary to make public announcement concerning grants or contracts for research, demonstrations, pilot projects, studies, or reports under this subchapter.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

### § 9846. Reports

#### (a) Status of children

At least once during every 2-year period, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning the status of children (including children with disabilities, limited English proficient children, homeless children, children in foster care, and children participating in Indian Head Start programs and migrant or seasonal Head Start programs) in Head Start programs, including the number of children and the services being provided to such children. Such report shall include—

(1) a statement for the then most recently concluded fiscal year specifying—

(A) the amount of funds received by Head Start agencies designated under section 9836

of this title to provide Head Start services in a period before such fiscal year; and

(B) the amount of funds received by Head Start agencies newly designated under section 9836 of this title to provide such services in such fiscal year;

(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs, including geographic distribution within States, and information on the number of children served under this subsection, disaggregated by type of eligibility criterion;

(3) a statement identifying how funds made available under section 9835(a) of this title were distributed and used at national, regional, and local levels;

(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

(5) cost per child and how such cost varies by region;

(6) a description of the level and nature of participation of parents in Head Start programs as volunteers and in other capacities;

(7) information concerning Head Start staff, including salaries, education, training, experience, and staff turnover;

(8) information concerning children participating in programs that receive Head Start funding, including information on family income, racial and ethnic background, homelessness, whether the child is in foster care or was referred by a child welfare agency, disability, and receipt of benefits under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(9) the use and source of funds to extend Head Start services to operate full-day and year round;

(10) using data from the monitoring conducted under section 9836a(c) of this title—

(A) a description of the extent to which programs funded under this subchapter comply with performance standards and regulations in effect under this subchapter;

(B) a description of the types and condition of facilities in which such programs are located;

(C) the types of organizations that receive Head Start funds under such programs; and

(D) the number of children served under each program option;

(11) the information contained in the documents entitled “Program Information Report” and “Head Start Cost Analyses System” (or any document similar to either), prepared with respect to Head Start programs;

(12) a description of the types of services provided to children and their families, both on-site and through referrals, including health, mental health, dental care, vision care, parenting education, physical fitness, and literacy training;

(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 9844 of this title, including—

(A) a status report on ongoing activities; and

(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

(14) a study of the delivery of Head Start programs to Indian children living on and near Indian reservations, to children of Alaska Natives, and to children of migrant and seasonal farmworker families.

Promptly after submitting such report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report may be obtained.

#### **(b) Facilities**

At least once during every 5-year period, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning the condition, location, and ownership of facilities used, or available to be used, by Indian Head Start agencies (including Alaska Native Head Start agencies) and Native Hawaiian Head Start agencies.

#### **(c) Fiscal protocol**

##### **(1) In general**

The Secretary shall conduct an annual review to assess whether the design and implementation of the triennial reviews described in section 9836a(c) of this title include compliance procedures that provide reasonable assurances that Head Start agencies are complying with applicable fiscal laws and regulations.

##### **(2) Report**

Not later than 30 days after the date the Secretary completes the annual review under paragraph (1), the Secretary shall report the findings and conclusions of the annual review to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

#### **(d) Disability-related services**

##### **(1) In general**

The Secretary shall track the provision of disability-related services for children, in order to—

(A) determine whether Head Start agencies are making timely referrals to the State or local agency responsible for providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(B) identify barriers to timely evaluations and eligibility determinations by the State or local agency responsible for providing services under section 619 or part C of the Individuals with Disabilities Education Act; and

(C) determine under what circumstances and for what length of time Head Start agencies are providing disability-related services for children who have not been determined under the Individuals with Disabilities Edu-

cation Act (20 U.S.C. 1400 et seq.) to be children with disabilities.

## (2) Report

Not later than 1 year after December 12, 2007, the Secretary shall provide a report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the activities described in paragraph (1).

## (e) Evaluation and recommendations regarding obesity prevention

Not later than 1 year after December 12, 2007, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the Secretary's progress in assisting program efforts to prevent and reduce obesity in children who participate in Head Start programs, including progress on implementing initiatives within the Head Start program to prevent and reduce obesity in such children.

(Pub. L. 97-35, title VI, § 650, formerly § 651, Aug. 13, 1981, 95 Stat. 506; Pub. L. 98-558, title I, § 108, Oct. 30, 1984, 98 Stat. 2880; Pub. L. 101-501, title I, §§ 118, 119, Nov. 3, 1990, 104 Stat. 1234; Pub. L. 102-401, § 2(k)(5), Oct. 7, 1992, 106 Stat. 1959; renumbered § 650 and amended Pub. L. 103-252, title I, § 118, May 18, 1994, 108 Stat. 648; Pub. L. 105-285, title I, § 117, Oct. 27, 1998, 112 Stat. 2727; Pub. L. 110-134, § 21, Dec. 12, 2007, 121 Stat. 1441.)

## Editorial Notes

### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(8), 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 this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(1), 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 Title 20, Education. Part C of the Act is classified generally to subchapter III (§ 1431 et seq.) of chapter 33 of Title 20. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-134, § 21(1)(A), (G), substituted, in introductory provisions, “Education and Labor” for “Education and the Workforce”, “Health, Education, Labor, and Pensions” for “Labor and Human Resources”, and “(including children with disabilities, limited English proficient children, homeless children, children in foster care, and children participating in Indian Head Start programs and migrant or seasonal Head Start programs)” for “(including disabled and non-English language background children)” and, in concluding provisions, “Education and Labor” for “Education and the Workforce” and “Health, Education, Labor, and Pensions” for “Labor and Human Resources”.

Subsec. (a)(2). Pub. L. 110-134, § 21(1)(B), inserted “, and information on the number of children served under this subsection, disaggregated by type of eligibility criterion” before semicolon at end.

Subsec. (a)(3). Pub. L. 110-134, § 21(1)(C), substituted “funds made available under section 9835(a) of this

title” for “funds expended under section 9835(a)(2) of this title, and funds allotted under section 9835(a)(3) of this title.”.

Subsec. (a)(8). Pub. L. 110-134, § 21(1)(D), inserted “homelessness, whether the child is in foster care or was referred by a child welfare agency,” after “background.”.

Subsec. (a)(12). Pub. L. 110-134, § 21(1)(E), inserted “vision care,” after “dental care.”.

Subsec. (a)(14). Pub. L. 110-134, § 21(1)(F), substituted “Alaska Natives” for “Alaskan Natives” and “seasonal farmworker families” for “seasonal farmworkers”.

Subsec. (b). Pub. L. 110-134, § 21(2), substituted “Education and Labor” for “Education and the Workforce”, “Health, Education, Labor, and Pensions” for “Labor and Human Resources”, and “Alaska Native” for “Native Alaskan”.

Subsecs. (c) to (e). Pub. L. 110-134, § 21(3), added subsecs. (c) to (e).

1998—Pub. L. 105-285 designated existing provisions as subsec. (a), inserted heading, substituted “Education and the Workforce” for “Education and Labor” in introductory and concluding provisions, and added subsec. (b).

1994—Pub. L. 103-252, § 118(a)(1), substituted “Reports” for “Evaluation” in section catchline.

Subsecs. (a) to (f). Pub. L. 103-252, § 118(a)(1), struck out subsecs. (a) to (f) which related to evaluations of programs under this subchapter to determine impact and effectiveness, adherence to Head Start performance standards, persons or entities assisting in evaluations, Secretary obtaining views of program participants, publication and submission of results to congressional committees, and all studies and evaluation material remaining property of the United States.

Subsec. (g). Pub. L. 103-252, § 118(a)(2)-(4), struck out subsec. (g) designation, substituted “monitoring conducted under section 9836a(c) of this title” for “evaluations conducted under section 9836(c)(2) of this title” in par. (10), and added pars. (13) and (14).

1992—Subsec. (g). Pub. L. 102-401 struck out “(1)” before “At least” at beginning of subsec. and substituted “physical” for “physicial” in par. (12).

1990—Subsec. (c)(2). Pub. L. 101-501, § 118, inserted at end “The Secretary is encouraged to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.”

Subsec. (g). Pub. L. 101-501, § 119, added subsec. (g).

1984—Subsec. (b). Pub. L. 98-558 substituted “not result in the elimination of nor any reduction in the scope or types of health, education, parental involvement, social or other services required to be provided under the standards” for “result in standards which are no less comprehensive than those” in second sentence.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual,

semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 4th item on page 79 identifies a reporting provision which, as subsequently amended, is contained in subsec. (a) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

**§§ 9846a, 9847. Repealed. Pub. L. 103-252, title I, § 119, May 18, 1994, 108 Stat. 648**

Section 9846a, Pub. L. 97-35, title VI, § 651A, as added Pub. L. 101-501, title I, § 120(a), Nov. 3, 1990, 104 Stat. 1235; amended Pub. L. 102-401, § 2(k)(6), Oct. 7, 1992, 106 Stat. 1959, related to longitudinal study of Head Start participants.

Section 9847, Pub. L. 97-35, title VI, § 652, Aug. 13, 1981, 95 Stat. 506; Pub. L. 101-501, title I, § 121(a), (c), Nov. 3, 1990, 104 Stat. 1237, directed Secretary to annually determine poverty line to be used as criterion of eligibility for participation in Head Start programs.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF REPEAL**

Repeal effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

**§ 9848. Comparability of wages**

**(a) Comparability of wages**

The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher; or (2) less than the minimum wage rate prescribed in section 206(a)(1) of title 29. The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

**(b) Limitation**

**(1) In general**

Notwithstanding any other provision of law, no Federal funds may be used to pay any part of the compensation of an individual employed by a Head Start agency, if such compensation, including non-Federal funds, exceeds an amount equal to the rate payable for level II of the Executive Schedule under section 5313 of title 5.

**(2) Compensation**

In this subsection, the term "compensation"—

(A) includes salary, bonuses, periodic payments, severance pay, the value of any vacation time, the value of a compensatory or paid leave benefit not excluded by subparagraph (B), and the fair market value of any employee perquisite or benefit not excluded by subparagraph (B); and

(B) excludes any Head Start agency expenditure for a health, medical, life insurance, disability, retirement, or any other employee welfare or pension benefit.

(Pub. L. 97-35, title VI, § 653, Aug. 13, 1981, 95 Stat. 507; Pub. L. 101-501, title I, § 122, Nov. 3, 1990, 104 Stat. 1237; Pub. L. 110-134, § 22, Dec. 12, 2007, 121 Stat. 1442.)

**Editorial Notes**

**AMENDMENTS**

2007—Pub. L. 110-134 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1990—Pub. L. 101-501 inserted at end "The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience."

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

**§ 9849. Nondiscrimination provisions**

**(a) Discrimination based on race, creed, color, etc., as basis for denial of financial assistance**

The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

**(b) Sex discrimination; enforcement provisions applicable**

No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

**(c) Discrimination based on handicapping condition as basis for denial of financial assistance**

The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract relating to the financial assistance specifically provides that no person with responsibilities in the operation of the program, project, or activity will discriminate against any individual because of a handicapping condition in violation of section 794 of title 29.

(Pub. L. 97-35, title VI, §654, Aug. 13, 1981, 95 Stat. 507.)

**§ 9850. Limitation with respect to certain unlawful activities**

No individual employed or assigned by or in any Head Start agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this subchapter by such Head Start agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(Pub. L. 97-35, title VI, §655, Aug. 13, 1981, 95 Stat. 507; Pub. L. 110-134, §23, Dec. 12, 2007, 121 Stat. 1443.)

**Editorial Notes**

**AMENDMENTS**

2007—Pub. L. 110-134 inserted “or in” after “assigned by”.

**§ 9851. Political activities**

**(a) State or local agency**

For purposes of chapter 15 of title 5, any agency which assumes responsibility for planning, developing, and coordinating Head Start programs and receives assistance under this subchapter shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

**(b) Restrictions**

**(1) In general**

A program assisted under this subchapter, and any individual employed by, or assigned to or in, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election.

**(2) Registration**

No funds appropriated under this subchapter may be used to conduct voter registration activities. Nothing in this subchapter prohibits the availability of Head Start facilities during hours of operation for the use of any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for Federal office.

**(3) Rules and regulations**

The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which

may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(Pub. L. 97-35, title VI, §656, Aug. 13, 1981, 95 Stat. 508; Pub. L. 110-134, §24, Dec. 12, 2007, 121 Stat. 1443.)

**Editorial Notes**

**AMENDMENTS**

2007—Subsec. (a). Pub. L. 110-134, §24(1), inserted heading.

Subsec. (b). Pub. L. 110-134, §24(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity. The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.”

**§ 9852. Advance funding**

For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this subchapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(Pub. L. 97-35, title VI, §657, Aug. 13, 1981, 95 Stat. 508.)

**§ 9852a. Parental consent requirement for non-emergency intrusive physical examinations**

**(a) Definition**

The term “nonemergency intrusive physical examination” means, with respect to a child, a physical examination that—

(1) is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual; and

(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

**(b) Requirement**

A Head Start agency shall obtain written parental consent before administration of any non-emergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

**(c) Rule of construction**

Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.

(Pub. L. 97-35, title VI, §657A, as added Pub. L. 110-134, §25, Dec. 12, 2007, 121 Stat. 1443.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 9852a, Pub. L. 97-35, title VI, §657A, as added Pub. L. 103-252, title I, §123, May 18, 1994, 108 Stat. 650, related to consultation with Corporation for National and Community Service, prior to repeal by Pub. L. 105-285, title I, §118, Oct. 27, 1998, 112 Stat. 2727.

**§ 9852b. Centers of Excellence in Early Childhood****(a) Definition**

In this section, the term “center of excellence” means a Center of Excellence in Early Childhood designated under subsection (b).

**(b) Designation and bonus grants**

The Secretary shall, subject to the availability of funds under this section, establish a program under which the Secretary shall—

(1) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, and migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

(2) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

**(c) Application and designation****(1) Application****(A) Nomination and submission****(i) In general**

To be eligible to receive a designation as a center of excellence under subsection (b), except as provided in clause (ii), a Head Start agency in a State shall be nominated by the Governor of the State, after selection for nomination by such Governor through a competitive process, and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

**(ii) Indian and migrant and seasonal Head Start programs**

In the case of an Indian Head Start agency or a migrant or seasonal Head Start agency, to be eligible to receive a designation as a center of excellence under subsection (b), such an agency shall be nominated by the head of the appropriate regional office of the Department of Health and Human Services and shall submit an application to the Secretary in accordance with clause (i).

**(B) Contents**

At a minimum, the application shall include—

(i) evidence that the Head Start program carried out by the agency involved has significantly improved the school readiness of children who have participated in the program;

(ii) evidence that the program meets or exceeds standards described in section 9836a(a)(1) of this title, as evidenced by the results of monitoring reviews described in section 9836a(c) of this title, and has no

findings of deficiencies in the preceding 3 years;

(iii) evidence that the program is making progress toward meeting the requirements described in section 9843a of this title;

(iv) an assurance that the Head Start agency will develop a collaborative partnership with the State (or a State agency) and other providers of early childhood education and development programs and services in the local community involved to conduct activities under subsection (d);

(v) a nomination letter from the Governor, or appropriate regional office, demonstrating the agency's ability to provide the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood education and development to children and families in the community served by the agency, and carry out the activities described under subsection (d)(1); and

(vi) a description of how the center involved, in order to expand accessibility and continuity of quality early childhood education and development services and programs, will coordinate activities, as appropriate, assisted under this section with—

(I) programs carried out under subchapter II-B;

(II) the Early Head Start programs carried out under section 9840a of this title;

(III) preschool programs carried out under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(IV) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(V) State prekindergarten programs; and

(VI) other programs of early childhood education and development.

**(2) Selection**

In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate not less than 1 from each of the 50 States, the District of Columbia, an Indian Head Start program, a migrant or seasonal Head Start program, and the Commonwealth of Puerto Rico.

**(3) Priority**

In making bonus grant determinations under this section, the Secretary shall give priority to agencies that, through their applications, demonstrate that their programs are of exceptional quality and would serve as exemplary models for programs in the same geographic region. The Secretary may also consider the populations served by the applicants, such as agencies that serve large proportions of families of limited English proficient children or other underserved populations, and may make bonus grants to agencies that do an exceptional job meeting the needs of children in such populations.

**(4) Term of designation****(A) In general**

Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

**(B) Revocation**

The Secretary may revoke an agency's designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance or has had findings of deficiencies described in paragraph (1)(B)(ii).

**(5) Amount of bonus grant**

The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence on the number of children eligible for Head Start services in the community involved. The Secretary shall, subject to the availability of funding, make such a bonus grant in an amount of not less than \$200,000 per year.

**(d) Use of funds**

A center of excellence that receives a bonus grant under subsection (b)—

(1) shall use not less than 15 percent of the funds made available through the bonus grant to disseminate to other Head Start agencies in the State involved, best practices for achieving early academic success, including—

(A) best practices for achieving school readiness, including developing early literacy and mathematics skills, for children at risk for school difficulties;

(B) best practices for achieving the acquisition of the English language for limited English proficient children, if appropriate to the population served; and

(C) best practices for providing high-quality comprehensive services for eligible children and their families;

(2) may use the funds made available through the bonus grant—

(A) to provide Head Start services to additional eligible children;

(B) to better meet the needs of working families in the community served by the center by serving more children in existing Early Head Start programs (existing as of the date the center is designated under this section) or in full-working-day, full calendar year Head Start programs;

(C) to further coordinate early childhood education and development programs and services and social services available in the community served by the center for at-risk children (birth through age 8), their families, and pregnant women;

(D) to provide professional development for Head Start teachers and staff, including joint training for Head Start teachers and staff, child care providers, public and private preschool and elementary school teachers, and other providers of early childhood education and development programs;

(E) to provide effective transitions between Head Start programs and elementary schools and to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services to improve the teachers' ability to work effectively with low-income, at-risk children and their families;

(F) to develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading partners to preschool children in Head Start programs; and

(G) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

**(e) Research and reports****(1) Research**

The Secretary shall, subject to the availability of funds to carry out this subsection, award a grant or contract to an independent organization to conduct research on the ability of the centers of excellence to use the funds received under this section to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center's delegate agencies, additional Head Start agencies, and other providers of early childhood education and development programs in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

**(2) Research report**

Not later than 48 months after December 12, 2007, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

**(3) Reports to the Secretary**

Each center of excellence shall submit an annual report to the Secretary, at such time and in such manner as the Secretary may require, that contains a description of the activities the center carried out with funds received under this section, including a description of how such funds improved services for children and families.

**(f) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to make bonus grants to centers of excellence under subsection (b) to carry out activities described in subsection (d) and research and report activities described in subsection (e).

(Pub. L. 97-35, title VI, §657B, as added Pub. L. 110-134, §26, Dec. 12, 2007, 121 Stat. 1444; amended Pub. L. 114-95, title IX, §9215(nn)(6), Dec. 10, 2015, 129 Stat. 2177.)

**Editorial Notes**

## REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(1)(B)(vi)(III), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1)(B)(vi)(IV), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

## AMENDMENTS

2015—Subsec. (c)(1)(B)(vi)(III) to (VII). Pub. L. 114-95 redesignated subcls. (IV) to (VII) as (III) to (VI), respectively, in subcl. (III) as redesignated, struck out “other” before “preschool programs” and substituted “the Elementary and Secondary Education Act of 1965” for “that Act”, and struck out former subcl. (III) which read as follows: “Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.)”.

**Statutory Notes and Related Subsidiaries**

## 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 Title 20, Education.

**§ 9852c. General provisions****(a) Limitation**

Nothing in this subchapter shall be construed to authorize or permit the Secretary or any employee or contractor of the Department of Health and Human Services to mandate, direct, or control, the selection of a curriculum, a program of instruction, or instructional materials, for a Head Start program.

**(b) Special rule**

Nothing in this subchapter shall be construed to authorize a Head Start program or a local educational agency to require the other to select or implement a specific curriculum or program of instruction.

**(c) Definition**

In this subchapter, the term “health”, when used to refer to services or care provided to enrolled children, their parents, or their siblings, shall be interpreted to refer to both physical and mental health.

(Pub. L. 97-35, title VI, §657C, as added Pub. L. 110-134, §27, Dec. 12, 2007, 121 Stat. 1448.)

SUBCHAPTER II-A—HEAD START  
TRANSITION PROJECT**§§ 9855 to 9855g. Repealed. Pub. L. 105-285, title I, § 119, Oct. 27, 1998, 112 Stat. 2728**

Section 9855, Pub. L. 101-501, title I, §132, Nov. 3, 1990, 104 Stat. 1238; Pub. L. 103-382, title III, §391(v)(1), Oct. 20, 1994, 108 Stat. 4025, defined terms used in this subchapter.

Section 9855a, Pub. L. 101-501, title I, §133, Nov. 3, 1990, 104 Stat. 1238; Pub. L. 103-252, title I, §125(a), May 18, 1994, 108 Stat. 650, related to Head Start transition grants.

Section 9855b, Pub. L. 101-501, title I, §134, Nov. 3, 1990, 104 Stat. 1238; Pub. L. 103-382, title III, §391(v)(2), (3), Oct. 20, 1994, 108 Stat. 4025, related to eligibility for Head Start transition grants.

Section 9855c, Pub. L. 101-501, title I, §135, Nov. 3, 1990, 104 Stat. 1239; Pub. L. 103-382, title III, §391(v)(4), Oct. 20, 1994, 108 Stat. 4025, related to requirements for awarding Head Start transition grants.

Section 9855d, Pub. L. 101-501, title I, §136, Nov. 3, 1990, 104 Stat. 1239; Pub. L. 102-119, §26(d), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-382, title III, §391(v)(5)-(7), Oct. 20, 1994, 108 Stat. 4025, related to applications for Head Start transition grants.

Section 9855e, Pub. L. 101-501, title I, §137, Nov. 3, 1990, 104 Stat. 1241, related to evaluation of and report on programs assisted under Head Start transition project.

Section 9855f, Pub. L. 101-501, title I, §138, Nov. 3, 1990, 104 Stat. 1242, related to payments and Federal share of payments under Head Start transition project.

Section 9855g, Pub. L. 101-501, title I, §139, Nov. 3, 1990, 104 Stat. 1242, related to coordination with programs established under the Follow Through Act.

SUBCHAPTER II-B—CHILD CARE AND  
DEVELOPMENT BLOCK GRANT**Editorial Notes**

## CODIFICATION

Subchapter is based on subchapter C 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, and amended by Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.

**§ 9857. Short title and purposes****(a) Short title**

This subchapter may be cited as the “Child Care and Development Block Grant Act of 1990”.

**(b) Purposes**

The purposes of this subchapter are—

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State;

(2) to promote parental choice to empower working parents to make their own decisions regarding the child care services that best suit their family’s needs;

(3) to encourage States to provide consumer education information to help parents make informed choices about child care services and to promote involvement by parents and family members in the development of their children in child care settings;

(4) to assist States in delivering high-quality, coordinated early childhood care and education services to maximize parents’ options and support parents trying to achieve independence from public assistance;

(5) to assist States in improving the overall quality of child care services and programs by implementing the health, safety, licensing, training, and oversight standards established in this subchapter and in State law (including State regulations);

(6) to improve child care and development of participating children; and

(7) to increase the number and percentage of low-income children in high-quality child care settings.

(Pub. L. 97–35, title VI, § 658A, as added Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236; amended Pub. L. 102–401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104–193, title VI, § 602, Aug. 22, 1996, 110 Stat. 2279; Pub. L. 113–186, § 2, Nov. 19, 2014, 128 Stat. 1971.)

### Editorial Notes

#### CODIFICATION

Subsection (a) of this section was formerly set out as a note under section 9801 of this title. Subsection (b) of this section was formerly set out as a note under section 9858 of this title.

#### AMENDMENTS

2014—Pub. L. 113–186 amended section generally. Prior to amendment, text read as follows:

“(a) **SHORT TITLE.**—This subchapter may be cited as the ‘Child Care and Development Block Grant Act of 1990’.

“(b) **GOALS.**—The goals of this subchapter are—

“(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

“(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family’s needs;

“(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

“(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

“(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.”

1996—Pub. L. 104–193 inserted “and goals” after “title” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1992—Pub. L. 102–401 and Pub. L. 102–586 made identical technical corrections to directory language of Pub. L. 101–508, § 5082(2), which added this section.

### § 9858. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter \$2,360,000,000 for fiscal year 2015, \$2,478,000,000 for fiscal year 2016, \$2,539,950,000 for fiscal year 2017, \$2,603,448,750 for fiscal year 2018, \$2,668,534,969 for fiscal year 2019, and \$2,748,591,018 for fiscal year 2020.

(Pub. L. 97–35, title VI, § 658B, as added Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236; amended Pub. L. 102–401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104–193, title VI, § 603(a), Aug. 22, 1996, 110 Stat. 2279; Pub. L. 113–186, § 3, Nov. 19, 2014, 128 Stat. 1971.)

### Editorial Notes

#### AMENDMENTS

2014—Pub. L. 113–186 substituted “subchapter \$2,360,000,000 for fiscal year 2015, \$2,478,000,000 for fiscal year 2016, \$2,539,950,000 for fiscal year 2017, \$2,603,448,750 for fiscal year 2018, \$2,668,534,969 for fiscal year 2019, and \$2,748,591,018 for fiscal year 2020” for “subchapter \$1,000,000,000 for each of the fiscal years 1996 through 2002”.

1996—Pub. L. 104–193 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this subchapter, \$750,000,000 for fiscal year 1991, \$825,000,000 for fiscal year 1992, \$925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.”

1992—Pub. L. 102–401 and Pub. L. 102–586 made identical technical corrections to directory language of Pub. L. 101–508, § 5082(2), which added this section.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VI, § 615, Aug. 22, 1996, 110 Stat. 2287, provided that:

“(a) **IN GENERAL.**—Except as provided in subsection (b), this title [see Short title of 1996 Amendment note set out under section 9801 of this title] and the amendments made by this title shall take effect on October 1, 1996.

“(b) **EXCEPTION.**—The amendment made by section 603(a) [amending this section] shall take effect on the date of enactment of this Act [Aug. 22, 1996].”

#### CHILD CARE STABILIZATION

Pub. L. 117–2, title II, § 2202, Mar. 11, 2021, 135 Stat. 31, provided that:

“(a) **DEFINITIONS.**—In this section:

“(1) **COVID–19 PUBLIC HEALTH EMERGENCY.**—The term ‘COVID–19 public health emergency’ means the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to COVID–19, including any renewal of the declaration.

“(2) **ELIGIBLE CHILD CARE PROVIDER.**—The term ‘eligible child care provider’ means—

“(A) an eligible child care provider as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n); or

“(B) a child care provider that is licensed, regulated, or registered in the State, territory, or Indian Tribe on the date of enactment of this Act [Mar. 11, 2021] and meets applicable State and local health and safety requirements.

“(b) **CHILD CARE STABILIZATION FUNDING.**—In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any amounts in the Treasury not otherwise appropriated, \$23,975,000,000, to remain available through September 30, 2021, for grants under this section in accordance with the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.].

“(c) **GRANTS.**—From the amounts appropriated to carry out this section and under the authority of section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) and this section, the Secretary shall award to each lead agency a child care stabilization grant, without regard to the requirements in subparagraphs (C) and (E) of section 658E(c)(3), and in section 658G, of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3), 9858e). Such grant shall be allotted in accordance with section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m).

“(d) **STATE RESERVATIONS AND SUBGRANTS.**—

“(1) **RESERVATION.**—A lead agency for a State that receives a child care stabilization grant pursuant to subsection (c) shall reserve not more than 10 percent of such grant funds to administer subgrants, provide technical assistance and support for applying for and accessing the subgrant opportunity, publicize the availability of the subgrants, carry out activities to increase the supply of child care, and provide technical assistance to help child care providers implement policies as described in paragraph (2)(D)(i).

“(2) **SUBGRANTS TO QUALIFIED CHILD CARE PROVIDERS.**—

“(A) IN GENERAL.—The lead agency shall use the remainder of the grant funds awarded pursuant to subsection (c) to make subgrants to qualified child care providers described in subparagraph (B), regardless of such a provider’s previous receipt of other Federal assistance, to support the stability of the child care sector during and after the COVID-19 public health emergency.

“(B) QUALIFIED CHILD CARE PROVIDER.—To be qualified to receive a subgrant under this paragraph, a provider shall be an eligible child care provider that on the date of submission of an application for the subgrant, was either—

“(i) open and available to provide child care services; or

“(ii) closed due to public health, financial hardship, or other reasons relating to the COVID-19 public health emergency.

“(C) SUBGRANT AMOUNT.—The amount of such a subgrant to a qualified child care provider shall be based on the provider’s stated current operating expenses, including costs associated with providing or preparing to provide child care services during the COVID-19 public health emergency, and to the extent practicable, cover sufficient operating expenses to ensure continuous operations for the intended period of the subgrant.

“(D) APPLICATION.—The lead agency shall—

“(i) make available on the lead agency’s website an application for qualified child care providers that includes certifications that, for the duration of the subgrant—

“(I) the provider applying will, when open and available to provide child care services, implement policies in line with guidance from the corresponding State, Tribal, and local authorities, and in accordance with State, Tribal, and local orders, and, to the greatest extent possible, implement policies in line with guidance from the Centers for Disease Control and Prevention;

“(II) for each employee, the provider will pay not less than the full compensation, including any benefits, that was provided to the employee as of the date of submission of the application for the subgrant (referred to in this subclause as ‘full compensation’), and will not take any action that reduces the weekly amount of the employee’s compensation below the weekly amount of full compensation, or that reduces the employee’s rate of compensation below the rate of full compensation, including the involuntary furloughing of any employee employed on the date of submission of the application for the subgrant; and

“(III) the provider will provide relief from co-payments and tuition payments for the families enrolled in the provider’s program, to the extent possible, and prioritize such relief for families struggling to make either type of payment; and

“(ii) accept and process applications submitted under this subparagraph on a rolling basis, and provide subgrant funds in advance of provider expenditures, except as provided in subsection (e)(2).

“(E) OBLIGATION.—The lead agency shall notify the Secretary if it is unable to obligate at least 50 percent of the funds received pursuant to subsection (c) that are available for subgrants described in this paragraph within 9 months of the date of enactment of this Act [Mar. 11, 2021].

“(e) USES OF FUNDS.—

“(1) IN GENERAL.—A qualified child care provider that receives funds through such a subgrant shall use the funds for at least one of the following:

“(A) Personnel costs, including payroll and salaries or similar compensation for an employee (including any sole proprietor or independent contractor), employee benefits, premium pay, or costs for employee recruitment and retention.

“(B) Rent (including rent under a lease agreement) or payment on any mortgage obligation, utilities, facility maintenance or improvements, or insurance.

“(C) Personal protective equipment, cleaning and sanitization supplies and services, or training and professional development related to health and safety practices.

“(D) Purchases of or updates to equipment and supplies to respond to the COVID-19 public health emergency.

“(E) Goods and services necessary to maintain or resume child care services.

“(F) Mental health supports for children and employees.

“(2) REIMBURSEMENT.—The qualified child care provider may use the subgrant funds to reimburse the provider for sums obligated or expended before the date of enactment of this Act for the cost of a good or service described in paragraph (1) to respond to the COVID-19 public health emergency.

“(f) SUPPLEMENT NOT SUPPLANT.—Amounts made available to carry out this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide child care services for eligible individuals.”

#### SMALL BUSINESS CHILD CARE GRANT PROGRAM

Pub. L. 110-28, title VIII, §8303, May 25, 2007, 121 Stat. 206, provided that:

“(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ‘Secretary’) shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

“(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

“(c) AMOUNT AND PERIOD OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

“(A) technical assistance in the establishment of a child care program;

“(B) assistance for the startup costs related to a child care program;

“(C) assistance for the training of child care providers;

“(D) scholarships for low-income wage earners;

“(E) the provision of services to care for sick children or to provide care to school-aged children;

“(F) the entering into of contracts with local resource and referral organizations or local health departments;

“(G) assistance for care for children with disabilities;

“(H) payment of expenses for renovation or operation of a child care facility; or

“(I) assistance for any other activity determined appropriate by the State.

“(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

## “(3) PREFERENCE.—

“(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

“(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

“(4) LIMITATIONS.—With respect to grant funds received under this section, a State may not provide in excess of \$500,000 in assistance from such funds to any single applicant.

“(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

“(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs (\$1 for each \$1 of assistance provided to the covered entity under the grant);

“(2) for the second fiscal year in which the covered entity receives such assistance, not less than 66⅔ percent of such costs (\$2 for each \$1 of assistance provided to the covered entity under the grant); and

“(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs (\$3 for each \$1 of assistance provided to the covered entity under the grant).

“(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

“(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

“(2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

“(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

## “(h) ADMINISTRATION.—

“(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

“(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

## “(3) MISUSE OF FUNDS.—

“(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

“(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

## “(i) REPORTING REQUIREMENTS.—

## “(1) 2-YEAR STUDY.—

“(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants

under this section, the Secretary shall conduct a study to determine—

“(i) the capacity of covered entities to meet the child care needs of communities within States;

“(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

“(iii) who is using the programs funded under this section and the income levels of such individuals.

“(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

## “(2) FOUR-YEAR STUDY.—

“(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

“(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

## “(j) DEFINITIONS.—In this section:

“(1) COVERED ENTITY.—The term ‘covered entity’ means a small business or a consortium formed in accordance with subsection (d)(3).

“(2) INDIAN COMMUNITY.—The term ‘Indian community’ means a community served by an Indian tribe or tribal organization.

“(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ‘Indian tribe’ and ‘tribal organization’ have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

“(4) SMALL BUSINESS.—The term ‘small business’ means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

“(5) STATE.—The term ‘State’ has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

## “(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

“(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term ‘State’ includes an Indian tribe or tribal organization.

“(2) GEOGRAPHIC REFERENCES.—The term ‘State’ includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term appears), (d)(3)(A) (the second place the term appears), and (i)(1)(A)(i).

“(3) STATE-LEVEL ACTIVITIES.—The term ‘State-level activities’ includes activities at the tribal level.

## “(l) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$50,000,000 for the period of fiscal years 2008 through 2012.

“(2) STUDIES AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than \$2,500,000 of that amount may be used for expenditures related to conducting studies required under, and the administration of, this section.

“(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2012.”

## GOALS OF SUBCHAPTER

Pub. L. 97-35, title VI, subtitle A, ch. 8, subch. C, § 658A(b), as added by Pub. L. 104-193, title VI, § 602(3), Aug. 22, 1996, 110 Stat. 2279, and amended by Pub. L. 113-186, § 2, Nov. 19, 2014, 128 Stat. 1971, which provided the goals of this subchapter and was formerly set out as a note under this section, was amended generally by Pub. L. 113-186 and subsequently transferred to section 9857(b) of this title.

**§ 9858a. Establishment of block grant program**

The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

(Pub. L. 97-35, title VI, § 658C, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-236; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

**Editorial Notes**

## AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858b. Lead agency****(a) Designation**

The Governor of a State desiring to receive a grant under this subchapter shall designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.

**(b) Duties****(1) In general**

The lead agency shall—

(A) administer, directly or through other governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;

(B) develop the State plan to be submitted to the Secretary under section 9858c(a) of this title;

(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State with sufficient time and Statewide distribution of the notice of such hearing, to provide to the public an opportunity to comment on the provision of child care services under the State plan;

(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs; and

(E) at the option of an Indian tribe or tribal organization in the State, collaborate and coordinate with such Indian tribe or tribal organization in the development of the State plan in a timely manner.

**(2) Development of plan**

In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government.

(Pub. L. 97-35, title VI, § 658D, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat.

1388-236; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, § 604, Aug. 22, 1996, 110 Stat. 2281; Pub. L. 113-186, § 4, Nov. 19, 2014, 128 Stat. 1972.)

**Editorial Notes**

## AMENDMENTS

2014—Subsec. (a). Pub. L. 113-186, § 4(a), substituted “Governor” for “chief executive officer” and “designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter” for “designate, in an application submitted to the Secretary under section 9858c of this title, an appropriate State agency that complies with the requirements of subsection (b) of this section to act as the lead agency”.

Subsec. (b)(1)(E). Pub. L. 113-186, § 4(b), added subpar. (E).

1996—Subsec. (b)(1)(A). Pub. L. 104-193, § 604(1)(A), substituted “governmental or nongovernmental agencies” for “State agencies”.

Subsec. (b)(1)(C). Pub. L. 104-193, § 604(1)(B), inserted “with sufficient time and Statewide distribution of the notice of such hearing,” after “hearing in the State”.

Subsec. (b)(2). Pub. L. 104-193, § 604(2), struck out at end “Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.”

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title

**§ 9858c. Application and plan****(a) Application**

To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including—

(1) an assurance that the State will comply with the requirements of this subchapter; and

(2) a State plan that meets the requirements of subsection (c).

**(b) Period covered by plan**

The State plan contained in the application under subsection (a) shall be designed to be implemented during a 3-year period.

**(c) Requirements of a plan****(1) Lead agency**

The State plan shall identify the lead agency designated or established under section 9858b of this title.

**(2) Policies and procedures**

The State plan shall:<sup>1</sup>

<sup>1</sup> So in original. Subpars. (D) and following do not continue from introductory provisions.

**(A) Parental choice of providers**

Provide assurances that—

(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter are given the option either—

(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

(II) to receive a child care certificate as defined in section 9858n(2) of this title;

(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.

**(B) Unlimited parental access**

Certify that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers, and provide a detailed description of such procedures.

**(C) Parental complaints**

Certify that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request and provide a detailed description of how such record is maintained and is made available.

**(D) Monitoring and inspection reports**

The plan shall include a certification that the State, not later than 1 year after the State has in effect the policies and practices described in subparagraph (K)(i), will make public by electronic means, in a consumer-friendly and easily accessible format, organized by provider, the results of monitoring and inspection reports, including those due to major substantiated complaints about failure to comply with this subchapter and State child care policies, as well as the number of deaths, serious injuries, and instances of substantiated child abuse that occurred in child care settings each year, for eligible child care providers within the State. The results shall also include information on the date of such an inspection, and, where applicable, information on corrective action taken.

**(E) Consumer and provider education information**

The plan shall include a certification that the State will collect and disseminate (which dissemination may be done, except as otherwise specified in this subparagraph, through resource and referral organizations or other means as determined by the State) to parents of eligible children, the general public, and, where applicable, providers—

(i) information about the availability of the full diversity of child care services that will promote informed child care choices and that concerns—

(I) the availability of child care services provided through programs authorized by this subchapter and, if feasible, other child care services and other programs provided in the State for which the family may be eligible, as well as the availability of financial assistance to obtain child care services in the State;

(II) if available, information about the quality of providers, as determined by the State, that can be provided through a Quality Rating and Improvement System;

(III) information, made available through a State Web site, describing the State process for licensing child care providers, the State processes for conducting background checks, and monitoring and inspections, of child care providers, and the offenses that prevent individuals and entities from serving as child care providers in the State;

(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), Head Start and Early Head Start programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), the program carried out under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established under section 1786 of this title, the child and adult care food program established under section 1766 of this title, and the Medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.);

(V) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(VI) research and best practices concerning children's development, including social and emotional development, early childhood development, and mean-

ingful parent and family engagement, and physical health and development (particularly healthy eating and physical activity); and

(VII) the State policies regarding the social-emotional behavioral health of young children, which may include positive behavioral intervention and support models, and policies on expulsion of preschool-aged children, in early childhood programs receiving assistance under this subchapter; and

(ii) information on developmental screenings, including—

(I) information on existing (as of the date of submission of the application containing the plan) resources and services the State can deploy, including the coordinated use of the Early and Periodic Screening, Diagnosis, and Treatment program under the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and developmental screening services available under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), in conducting developmental screenings and providing referrals to services, when appropriate, for children who receive assistance under this subchapter; and

(II) a description of how a family or eligible child care provider may utilize the resources and services described in subclause (I) to obtain developmental screenings for children who receive assistance under this subchapter who may be at risk for cognitive or other developmental delays, which may include social, emotional, physical, or linguistic delays.

**(F) Compliance with State licensing requirements**

**(i) In general**

The plan shall include a certification that the State involved has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced.

**(ii) License exemption**

If the State uses funds received under this subchapter to support a child care provider that is exempt from the corresponding licensing requirements described in clause (i), the plan shall include a description stating why such licensing exemption does not endanger the health, safety, or development of children who receive services from child care providers who are exempt from such requirements.

**(G) Training and professional development requirements**

**(i) In general**

The plan shall describe the training and professional development requirements that are in effect within the State de-

signed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and to improve the knowledge and skills of the child care workforce. Such requirements shall be applicable to child care providers that provide services for which assistance is provided in accordance with this subchapter.

**(ii) Requirements**

The plan shall provide an assurance that such training and professional development—

(I) shall be conducted on an ongoing basis, provide for a progression of professional development (which may include encouraging the pursuit of postsecondary education), reflect current research and best practices relating to the skills necessary for the child care workforce to meet the developmental needs of participating children, and improve the quality of, and stability within, the child care workforce;

(II) shall be developed in consultation with the State Advisory Council on Early Childhood Education and Care (designated or established pursuant to section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i))), and may engage training providers in aligning training opportunities with the State's training framework;

(III) incorporates<sup>2</sup> knowledge and application of the State's early learning and developmental guidelines (where applicable), the State's health and safety standards, and incorporates social-emotional behavior intervention models, which may include positive behavior intervention and support models;

(IV) shall be accessible to providers supported through Indian tribes or tribal organizations that receive assistance under this subchapter; and

(V) to the extent practicable, are appropriate for a population of children that includes—

(aa) different age groups;

(bb) English learners;

(cc) children with disabilities; and

(dd) Native Americans, including Indians, as the term is defined in section 5304 of title 25 (including Alaska Natives within the meaning of that term), and Native Hawaiians (as defined in section 7517 of title 20).

**(iii) Information**

The plan shall include the number of hours of training required for eligible providers and caregivers to engage in annually, as determined by the State.

**(iv) Construction**

The Secretary shall not require an individual or entity that provides child care services for which assistance is provided in accordance with this subchapter to acquire

<sup>2</sup> So in original. Probably should be "incorporate".

a credential to provide such services. Nothing in this section shall be construed to prohibit a State from requiring a credential.

**(H) Child-to-provider ratio standards**

**(i) Standards**

The plan shall describe child care standards for child care services for which assistance is made available in accordance with this subchapter, appropriate to the type of child care setting involved, to provide for the safety and developmental needs of the children served, that address—

(I) group size limits for specific age populations, as determined by the State;

(II) the appropriate ratio between the number of children and the number of providers, in terms of the age of the children in child care, as determined by the State; and

(III) required qualifications for such providers, as determined by the State.

**(ii) Construction**

The Secretary may offer guidance to States on child-to-provider ratios described in clause (i) according to setting and age group, but shall not require that the State maintain specific group size limits for specific age populations or child-to-provider ratios for providers who receive assistance in accordance with subchapter.<sup>3</sup>

**(I) Health and safety requirements**

The plan shall include a certification that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available in accordance with this subchapter. Such requirements—

(i) shall relate to matters including health and safety topics consisting of—

(I) the prevention and control of infectious diseases (including immunization) and the establishment of a grace period that allows homeless children and children in foster care to receive services under this subchapter while their families (including foster families) are taking any necessary action to comply with immunization and other health and safety requirements;

(II) prevention of sudden infant death syndrome and use of safe sleeping practices;

(III) the administration of medication, consistent with standards for parental consent;

(IV) the prevention of and response to emergencies due to food and allergic reactions;

(V) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

(VI) prevention of shaken baby syndrome and abusive head trauma;

(VII) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 5195a(a)(1) of this title;

(VIII) the handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(IX) for providers that offer transportation, if applicable, appropriate precautions in transporting children;

(X) first aid and cardiopulmonary resuscitation; and

(XI) minimum health and safety training, to be completed pre-service or during an orientation period in addition to ongoing training, appropriate to the provider setting involved that addresses each of the requirements relating to matters described in subclauses (I) through (X); and

(ii) may include requirements relating to nutrition, access to physical activity, or any other subject area determined by the State to be necessary to promote child development or to protect children's health and safety.

**(J) Compliance with state and local health and safety requirements**

The plan shall include a certification that procedures are in effect to ensure that child care providers within the State, that provide services for which assistance is made available in accordance with this subchapter, comply with all applicable State and local health and safety requirements as described in subparagraph (I).

**(K) Enforcement of licensing and other regulatory requirements**

**(i) Certification**

The plan shall include a certification that the State, not later than 2 years after November 19, 2014, shall have in effect policies and practices, applicable to licensing or regulating child care providers that provide services for which assistance is made available in accordance with this subchapter and the facilities of those providers, that—

(I) ensure that individuals who are hired as licensing inspectors in the State are qualified to inspect those child care providers and facilities and have received training in related health and safety requirements, and are trained in all aspects of the State's licensure requirements;

(II) require licensing inspectors (or qualified inspectors designated by the lead agency) of those child care providers and facilities to perform inspections, with—

(aa) not less than 1 prelicensure inspection, for compliance with health, safety, and fire standards, of each such child care provider and facility in the State; and

<sup>3</sup> So in original. Probably should be "with this subchapter."

(bb) not less than annually, an inspection (which shall be unannounced) of each such child care provider and facility in the State for compliance with all child care licensing standards, which shall include an inspection for compliance with health, safety, and fire standards (inspectors may inspect for compliance with all 3 standards at the same time);

(III) require the ratio of licensing inspectors to such child care providers and facilities in the State to be maintained at a level sufficient to enable the State to conduct inspections of such child care providers and facilities on a timely basis in accordance with Federal, State, and local law; and

(IV) require licensing inspectors (or qualified inspectors designated by the lead agency) of child care providers and facilities to perform an annual inspection of each license-exempt provider in the State receiving funds under this subchapter (unless the provider is an eligible child care provider as described in section 9858n(6)(B) of this title) for compliance with health, safety, and fire standards, at a time to be determined by the State.

**(ii) Construction**

The Secretary may offer guidance to a State, if requested by the State, on a research-based minimum standard regarding ratios described in clause (i)(III) and provide technical assistance to the State on meeting the minimum standard within a reasonable time period, but shall not prescribe a particular ratio.

**(L) Compliance with child abuse reporting requirements**

The plan shall include a certification that child care providers within the State will comply with the child abuse reporting requirements of section 5106a(b)(2)(B)(i) of this title.

**(M) Meeting the needs of certain populations**

The plan shall describe how the State will develop and implement strategies (which may include alternative reimbursement rates to child care providers, the provision of direct contracts or grants to community-based organizations, offering child care certificates to parents, or other means determined by the State) to increase the supply and improve the quality of child care services for—

- (i) children in underserved areas;
- (ii) infants and toddlers;
- (iii) children with disabilities, as defined by the State; and
- (iv) children who receive care during nontraditional hours.

**(N) Protection for working parents**

**(i) Minimum period**

**(I) 12-month period**

The plan shall demonstrate that each child who receives assistance under this

subchapter in the State will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State or designated local entity redetermines the eligibility of the child under this subchapter, regardless of a temporary change in the ongoing status of the child's parent as working or attending a job training or educational program or a change in family income for the child's family, if that family income does not exceed 85 percent of the State median income for a family of the same size.

**(II) Fluctuations in earnings**

The plan shall demonstrate how the State's or designated local entity's processes for initial determination and redetermination of such eligibility take into account irregular fluctuations in earnings.

**(ii) Redetermination process**

The plan shall describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's or designated local entity's requirements for redetermination of eligibility for assistance provided in accordance with this subchapter.

**(iii) Period before termination**

At the option of the State, the plan shall demonstrate that the State will not terminate assistance provided to carry out this subchapter based on a factor consisting of a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 3 months, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance at a job training or educational program, as soon as possible.

**(iv) Graduated phaseout of care**

The plan shall describe the policies and procedures that are in place to allow for provision of continued assistance to carry out this subchapter, at the beginning of a new eligibility period under clause (i)(I), for children of parents who are working or attending a job training or educational program and whose family income exceeds the State's income limit to initially qualify for such assistance, if the family income for the family involved does not exceed 85 percent of the State median income for a family of the same size.

**(O) Coordination with other programs****(i) In general**

The plan shall describe how the State, in order to expand accessibility and continuity of care, and assist children enrolled in early childhood programs to receive full-day services, will efficiently, and to the extent practicable, coordinate the services supported to carry out this subchapter with programs operating at the Federal, State, and local levels for children in preschool programs, tribal early childhood programs, and other early childhood programs, including those serving infants and toddlers with disabilities, homeless children, and children in foster care.

**(ii) Optional use of combined funds**

If the State elects to combine funding for the services supported to carry out this subchapter with funding for any program described in clause (i), the plan shall describe how the State will combine the multiple sets of funding and use the combined funding.

**(iii) Rule of construction**

Nothing in clause (i) shall be construed to affect the priority of children described in clause (i) to receive full-day prekindergarten or Head Start program services.

**(P) Public-private partnerships**

The plan shall demonstrate how the State encourages partnerships among State agencies, other public agencies, Indian tribes and tribal organizations, and private entities, including faith-based and community-based organizations, to leverage existing service delivery systems (as of the date of the submission of the application containing the plan) for child care and development services and to increase the supply and quality of child care services for children who are less than 13 years of age, such as by implementing voluntary shared services alliance models.

**(Q) Priority for low-income populations**

The plan shall describe the process the State proposes to use, with respect to investments made to increase access to programs providing high-quality child care and development services, to give priority for those investments to children of families in areas that have significant concentrations of poverty and unemployment and that do not have such programs.

**(R) Consultation**

The plan shall include a certification that the State has developed the plan in consultation with the State Advisory Council on Early Childhood Education and Care designated or established pursuant to section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i)).

**(S) Payment practices**

The plan shall include—

(i) a certification that the payment practices of child care providers in the State

that serve children who receive assistance under this subchapter reflect generally accepted payment practices of child care providers in the State that serve children who do not receive assistance under this subchapter, so as to provide stability of funding and encourage more child care providers to serve children who receive assistance under this subchapter; and

(ii) an assurance that the State will, to the extent practicable, implement enrollment and eligibility policies that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child's occasional absences due to holidays or unforeseen<sup>4</sup> circumstances such as illness.

**(T) Early learning and developmental guidelines****(i) In general**

The plan shall include an assurance that the State will maintain or implement early learning and developmental guidelines (or develop such guidelines if the State does not have such guidelines as of November 19, 2014) that are appropriate for children from birth to kindergarten entry, describing what such children should know and be able to do, and covering the essential domains of early childhood development for use statewide by child care providers. Such guidelines shall—

(I) be research-based, developmentally appropriate, and aligned with entry to kindergarten;

(II) be implemented in consultation with the state<sup>5</sup> educational agency and the State Advisory Council on Early Childhood Education and Care (designated or established pursuant to section 642B(b)(1)(A)(i)<sup>6</sup> of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i));<sup>7</sup> and

(III) be updated as determined by the State.

**(ii) Prohibition on use of funds**

The plan shall include an assurance that funds received by the State to carry out this subchapter will not be used to develop or implement an assessment for children that—

(I) will be the sole basis for a child care provider being determined to be ineligible to participate in the program carried out under this subchapter;

(II) will be used as the primary or sole basis to provide a reward or sanction for an individual provider;

(III) will be used as the primary or sole method for assessing program effectiveness; or

(IV) will be used to deny children eligibility to participate in the program carried out under this subchapter.

<sup>4</sup>So in original. Probably should be “unforeseen”.

<sup>5</sup>So in original. Probably should be capitalized.

<sup>6</sup>So in original. Probably should be “642B(b)(1)(A)(i)”.

<sup>7</sup>So in original. Another closing parenthesis probably should precede the semicolon.

**(iii) Exceptions**

Nothing in this subchapter shall preclude the State from using a single assessment as determined by the State for children for—

- (I) supporting learning or improving a classroom environment;
- (II) targeting professional development to a provider;
- (III) determining the need for health, mental health, disability, developmental delay, or family support services;
- (IV) obtaining information for the quality improvement process at the State level; or
- (V) conducting a program evaluation for the purposes of providing program improvement and parent information.

**(iv) No Federal control**

Nothing in this section shall be construed to authorize an officer or employee of the Federal Government to—

- (I) mandate, direct, control, or place conditions (outside of what is required by this subchapter) around adopting a State's early learning and developmental guidelines developed in accordance with this section;
- (II) establish any criterion that specifies, defines, prescribes, or places conditions (outside of what is required by this subchapter) on a State adopting standards or measures that a State uses to establish, implement, or improve such guidelines, related accountability systems, or alignment of such guidelines with education standards; or
- (III) require a State to submit such guidelines for review.

**(U) Disaster preparedness****(i) In general**

The plan shall demonstrate the manner in which the State will address the needs of children in child care services provided through programs authorized under this subchapter, including the need for safe child care, for the period before, during, and after a state of emergency declared by the Governor or a major disaster or emergency (as such terms are defined in section 5122 of this title).

**(ii) Statewide child care disaster plan**

Such plan shall include a statewide child care disaster plan for coordination of activities and collaboration, in the event of an emergency or disaster described in clause (i), among the State agency with jurisdiction over human services, the agency with jurisdiction over State emergency planning, the State lead agency, the State agency with jurisdiction over licensing of child care providers, the local resource and referral organizations, the State resource and referral system, and the State Advisory Council on Early Childhood Education and Care as provided for under section 642B(b) of the Head Start Act (42 U.S.C. 9837b(b)).

**(iii) Disaster plan components**

The components of the disaster plan, for such an emergency or disaster, shall include—

- (I) evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;
- (II) guidelines for the continuation of child care services in the period following the emergency or disaster, which may include the provision of emergency and temporary child care services, and temporary operating standards for child care providers during that period; and
- (III) procedures for staff and volunteer emergency preparedness training and practice drills.

**(V) Business technical assistance**

The plan shall describe how the State will develop and implement strategies to strengthen the business practices of child care providers to expand the supply, and improve the quality of, child care services.

**(3) Use of block grant funds****(A) General requirement**

The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter in accordance with subparagraphs (B) through (D).

**(B) Child care services and related activities****(i) In general**

The State shall use amounts provided to the State for each fiscal year under this subchapter for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, activities that improve access to child care services, including the use of procedures to permit enrollment (after an initial eligibility determination) of homeless children while required documentation is obtained, training and technical assistance on identifying and serving homeless children and their families, and specific outreach to homeless families, and any other activity that the State determines to be appropriate to meet the purposes of this subchapter (which may include an activity described in clause (ii)), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs.

**(ii) Report by the Assistant Secretary for Children and Families****(I) In general**

Not later than September 30 of the first full fiscal year after November 19, 2014, and September 30 of each fiscal year thereafter, the Secretary (acting

through the Assistant Secretary for Children and Families of the Department of Health and Human Services) shall prepare a report that contains a determination about whether each State uses amounts provided to such State for the fiscal year involved under this subchapter in accordance with the priority for services described in clause (i).

**(II) Penalty for noncompliance**

For any fiscal year that the report of the Secretary described in subclause (I) indicates that a State has failed to give priority for services in accordance with clause (i), the Secretary shall—

(aa) inform the State that the State has until the date that is 6 months after the Secretary has issued such report to fully comply with clause (i);

(bb) provide the State an opportunity to modify the State plan of such State, to make the plan consistent with the requirements of clause (i), and resubmit such State plan to the Secretary not later than the date described in item (aa); and

(cc) if the State does not fully comply with clause (i) and item (bb), by the date described in item (aa), withhold 5 percent of the funds that would otherwise be allocated to that State in accordance with this subchapter for the first full fiscal year after that date.

**(III) Waiver for extraordinary circumstances**

Notwithstanding subclause (II) the Secretary may grant a waiver to a State for one year to the penalty applied in subclause (II) if the Secretary determines there are extraordinary circumstances, such as a natural disaster, that prevent the State from complying with clause (i). If the Secretary does grant a waiver to a State under this section, the Secretary shall, within 30 days of granting such waiver, submit a report to the appropriate congressional committees on the circumstances of the waiver including the stated reason from the State on the need for a waiver, the expected impact of the waiver on children served under this program, and any such other relevant information the Secretary deems necessary.

**(iii) Child care resource and referral system**

**(I) In general**

A State may use amounts described in clause (i) to establish or support a system of local or regional child care resource and referral organizations that is coordinated, to the extent determined appropriate by the State, by a statewide public or private nonprofit, community-based or regionally based, lead child care resource and referral organization.

**(II) Local or regional organizations**

The local or regional child care resource and referral organizations sup-

ported as described in subclause (I) shall—

(aa) provide parents in the State with consumer education information referred to in paragraph (2)(E) (except as otherwise provided in that paragraph), concerning the full range of child care options (including faith-based and community-based child care providers), analyzed by provider, including child care provided during non-traditional hours and through emergency child care centers, in their political subdivisions or regions;

(bb) to the extent practicable, work directly with families who receive assistance under this subchapter to offer the families support and assistance, using information described in item (aa), to make an informed decision about which child care providers they will use, in an effort to ensure that the families are enrolling their children in the most appropriate child care setting to suit their needs and one that is of high quality (as determined by the State);

(cc) collect data and provide information on the coordination of services and supports, including services under section 619 and part C of the Individuals with Disabilities Education Act [20 U.S.C. 1419, 1431 et seq.], for children with disabilities (as defined in section 602 of such Act (20 U.S.C. 1401));

(dd) collect data and provide information on the supply of and demand for child care services in political subdivisions or regions within the State and submit such information to the State;

(ee) work to establish partnerships with public agencies and private entities, including faith-based and community-based child care providers, to increase the supply and quality of child care services in the State; and

(ff) as appropriate, coordinate their activities with the activities of the State lead agency and local agencies that administer funds made available in accordance with this subchapter.

**(C) Limitation on administrative costs**

Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term “administrative costs” shall not include the costs of providing direct services.

**(D) Assistance for certain families**

A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act [42 U.S.C. 618(b)(2)] with respect to each of

the fiscal years 2015 through 2020<sup>8</sup> to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families including or in addition to families with children described in clause (i), (ii), (iii), or (iv) of paragraph (2)(M).

**(E) Direct services**

From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—

(i) reserve the minimum amount required to be reserved under section 9858e of this title, and the funds for costs described in subparagraph (C); and

(ii) from the remainder, use not less than 70 percent to fund direct services (provided by the State) in accordance with paragraph (2)(A).

**(4) Payment rates**

**(A) In general**

The State plan shall certify that payment rates for the provision of child care services for which assistance is provided in accordance with this subchapter are sufficient to ensure equal access for eligible children to child care services that are comparable to child care services in the State or substate area involved that are provided to children whose parents are not eligible to receive assistance under this subchapter or to receive child care assistance under any other Federal or State program, and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access.

**(B) Survey**

The State plan shall—

(i) demonstrate that the State has, after consulting with the State Advisory Council on Early Childhood Education and Care designated or established in section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i)), local child care program administrators, local child care resource and referral agencies, and other appropriate entities, developed and conducted (not earlier than 2 years before the date of the submission of the application containing the State plan) a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) or an alternative methodology, such as a cost estimation model, that has been developed by the State lead agency;

(ii) demonstrate that the State prepared a detailed report containing the results of the State market rates survey or alternative methodology conducted pursuant to clause (i), and made the results of the survey or alternative methodology widely available (not later than 30 days after the completion of such survey or alternative methodology) through periodic means, in-

cluding posting the results on the Internet;

(iii) describe how the State will set payment rates for child care services, for which assistance is provided in accordance with this subchapter—

(I) in accordance with the results of the market rates survey or alternative methodology conducted pursuant to clause (i);

(II) taking into consideration the cost of providing higher quality child care services than were provided under this subchapter before November 19, 2014; and

(III) without, to the extent practicable, reducing the number of families in the State receiving such assistance to carry out this subchapter, relative to the number of such families on November 19, 2014; and

(iv) describe how the State will provide for timely payment for child care services provided under this subchapter.

**(C) Construction**

**(i) No private right of action**

Nothing in this paragraph shall be construed to create a private right of action if the State acted in accordance with this paragraph.

**(ii) No prohibition of certain different rates**

Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (B)(iii) on the basis of such factors as—

(I) geographic location of child care providers (such as location in an urban or rural area);

(II) the age or particular needs of children (such as the needs of children with disabilities and children served by child protective services);

(III) whether the providers provide child care services during weekend and other nontraditional hours; or

(IV) the State's determination that such differentiated payment rates may enable a parent to choose high-quality child care that best fits the parent's needs.

**(5) Sliding fee scale**

The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing (that is not a barrier to families receiving assistance under this subchapter) by the families that receive child care services for which assistance is provided under this subchapter.

**(d) Approval of application**

The Secretary shall approve an application that satisfies the requirements of this section.

(Pub. L. 97-35, title VI, § 658E, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-237; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, § 605, Aug. 22, 1996, 110 Stat. 2281; Pub. L. 105-33,

<sup>8</sup> So in original. A closing parenthesis probably should appear.

title V, §5602(1), Aug. 5, 1997, 111 Stat. 645; Pub. L. 113-186, §5(a), (b), Nov. 19, 2014, 128 Stat. 1972; Pub. L. 114-95, title IX, §9215(p)(1), Dec. 10, 2015, 129 Stat. 2170.)

### Editorial Notes

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(E)(i)(IV), (ii)(I), (N)(ii), 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 this title. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(2)(E)(i)(IV), 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 this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (c)(2)(E)(i)(IV), is title XXVI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 893, which is classified principally to subchapter II (§8621 et seq.) of chapter 94 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(E)(i)(IV), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(2)(E)(i)(V), (ii)(I), (3)(B)(iii)(II)(cc), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

#### AMENDMENTS

2015—Subsec. (c)(2)(G)(ii)(V)(dd). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7517 of title 20.

2014—Subsec. (b). Pub. L. 113-186, §5(a), substituted “3-year” for “2-year”.

Subsec. (c)(1). Pub. L. 113-186, §5(b)(1), inserted “or established” after “designated”.

Subsec. (c)(2)(B). Pub. L. 113-186, §5(b)(2)(A), inserted a comma after “care of such providers”.

Subsec. (c)(2)(D) to (V). Pub. L. 113-186, §5(b)(2)(B), (C), added subpars. (D) to (V) and struck out former subpars. (D) to (H) which related to consumer education information, compliance with State licensing requirements, establishment of health and safety requirements, compliance with State and local health and safety requirements, and meeting the needs of certain populations, respectively.

Subsec. (c)(3)(A). Pub. L. 113-186, §5(b)(3)(A), substituted “in accordance with” for “as required under”.

Subsec. (c)(3)(B). Pub. L. 113-186, §5(b)(3)(B), designated existing provisions as cl. (i), inserted heading, substituted “activities that improve access to child care services, including the use of procedures to permit enrollment (after an initial eligibility determination) of homeless children while required documentation is obtained, training and technical assistance on identifying and serving homeless children and their families, and specific outreach to homeless families, and any other activity that the State determines to be appropriate to meet the purposes of this subchapter (which may include an activity described in clause (ii))” for “and any other activity that the State deems appro-

priate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)”, and added cls. (ii) and (iii).

Subsec. (c)(3)(D). Pub. L. 113-186, §5(b)(3)(C), substituted “2015 through 2020” for “1997 through 2002” and “including or in addition to families with children described in clause (i), (ii), (iii), or (iv) of paragraph (2)(M)” for “other than families described in paragraph (2)(H)”.

Subsec. (c)(3)(E). Pub. L. 113-186, §5(b)(3)(D), added subpar. (E).

Subsec. (c)(4). Pub. L. 113-186, §5(b)(4), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows:

“(A) IN GENERAL.—The State plan shall certify that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access.

“(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create a private right of action.”

Subsec. (c)(5). Pub. L. 113-186, §5(b)(5), inserted “(that is not a barrier to families receiving assistance under this subchapter)” after “cost sharing”.

1997—Subsec. (c)(2)(E)(ii). Pub. L. 105-33 substituted “tribal organizations receiving” for “tribal organization receiving”.

1996—Subsec. (b). Pub. L. 104-193, §605(1), substituted “implemented during a 2-year period” for “implemented—

“(1) during a 3-year period for the initial State plan; and

“(2) during a 2-year period for subsequent State plans”.

Subsec. (c)(2)(A). Pub. L. 104-193, §605(2)(A)(i)(II), in closing provisions, substituted “and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.” for “except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1992.”

Subsec. (c)(2)(A)(i). Pub. L. 104-193, §605(2)(A)(i)(I), struck out “, other than through assistance provided under paragraph (3)(C),” after “provided under this subchapter” in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 104-193, §605(2)(A)(ii), substituted “Certify that procedures are in effect” for “Provide assurances that procedures are in effect” and inserted before period at end “and provide a detailed description of such procedures”.

Subsec. (c)(2)(C). Pub. L. 104-193, §605(2)(A)(iii), substituted “Certify that the State maintains” for “Provide assurances that the State maintains” and inserted before period at end “and provide a detailed description of how such record is maintained and is made available”.

Subsec. (c)(2)(D). Pub. L. 104-193, §605(2)(A)(iv), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: “Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.”

Subsec. (c)(2)(E). Pub. L. 104-193, §605(2)(A)(v), amended heading and text of subpar. (E) generally, substituting provisions relating to compliance with State licensing requirements for provisions relating to compliance with State and local regulatory requirements.

Subsec. (c)(2)(F). (G). Pub. L. 104-193, §605(2)(A)(vi), (vii), substituted “Certify” for “Provide assurances”.

Subsec. (c)(2)(H). Pub. L. 104-193, §605(2)(A)(viii), added subpar. (H) and struck out heading and text of

former subpar. (H). Text read as follows: “Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on November 5, 1990, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 9858i of this title.”

Subsec. (c)(2)(I). Pub. L. 104-193, §605(2)(A)(viii), struck out heading and text of subpar. (I). Text read as follows: “Provide assurances that not later than 18 months after the date of the submission of the application under this section, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on November 5, 1990.”

Subsec. (c)(2)(J). Pub. L. 104-193, §605(2)(A)(viii), struck out heading and text of subpar. (J). Text read as follows: “Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.”

Subsec. (c)(3)(A). Pub. L. 104-193, §605(2)(B)(i), substituted “subparagraphs (B) through (D)” for “subparagraphs (B) and (C)”.

Subsec. (c)(3)(B). Pub. L. 104-193, §605(2)(B)(ii), inserted “and related activities” after “services” in heading, substituted “The” for “Subject to the reservation contained in subparagraph (C), the”, substituted “for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)” for “for—

“(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in subsection (c)(2)(A) of this section”, substituted “special needs.” for “special needs; and”, and struck out cl. (ii) which read as follows: “activities designed to improve the availability and quality of child care.”

Subsec. (c)(3)(C). Pub. L. 104-193, §605(2)(B)(iii), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: “The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 9858e of this title) and to provide before- and after-school and early childhood development services (as described in section 9858f of this title).”

Subsec. (c)(3)(D). Pub. L. 104-193, §605(2)(B)(iv), added subpar. (D).

Subsec. (c)(4)(A). Pub. L. 104-193, §605(2)(C), substituted “State plan shall certify” for “State plan shall provide assurances”, inserted “and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access” after “Federal or State programs”, and struck out at end “Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.”

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

#### Statutory Notes and Related Subsidiaries

##### 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 Title 20, Education.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

#### § 9858d. Limitations on State allotments

##### (a) No entitlement to contract or grant

Nothing in this subchapter shall be construed—

(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

##### (b) Construction of facilities

###### (1) In general

Except as provided for in section 9858m(c)(6) of this title, no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

###### (2) Sectarian agency or organization

In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 9858c(c)(2)(I) of this title.

(Pub. L. 97-35, title VI, §658F, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-240; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, §606, Aug. 22, 1996, 110 Stat. 2283; Pub. L. 113-186, §5(c), Nov. 19, 2014, 128 Stat. 1987.)

#### Editorial Notes

##### AMENDMENTS

2014—Subsec. (b)(2). Pub. L. 113-186 substituted “section 9858c(c)(2)(I)” for “section 9858c(c)(2)(F)”.

1996—Subsec. (b)(1). Pub. L. 104-193 substituted “Except as provided for in section 9858m(c)(6) of this title, no funds” for “No funds”.

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

**§ 9858e. Activities to improve the quality of child care**

**(a) Reservation**

**(1) Reservation for activities relating to the quality of child care services**

A State that receives funds to carry out this subchapter for a fiscal year referred to in paragraph (2) shall reserve and use a portion of such funds, in accordance with paragraph (2), for activities provided directly, or through grants or contracts with local child care resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services and increase parental options for, and access to, high-quality child care, and is in alignment with a Statewide assessment of the State's needs to carry out such services and care, provided in accordance with this subchapter.

**(2) Amount of reservations**

Such State shall reserve and use—

(A) to carry out the activities described in paragraph (1), not less than—

(i) 7 percent of the funds described in paragraph (1), for the first and second full fiscal years after November 19, 2014;

(ii) 8 percent of such funds for the third and fourth full fiscal years after November 19, 2014; and

(iii) 9 percent of such funds for the fifth and each succeeding full fiscal year after November 19, 2014; and

(B) in addition to the funds reserved under subparagraph (A), 3 percent of the funds described in paragraph (1) received not later than the second full fiscal year after November 19, 2014, and received for each succeeding full fiscal year, to carry out the activities described in paragraph (1) and subsection (b)(4), as such activities relate to the quality of care for infants and toddlers.

**(3) State reservation amount**

Nothing in this subsection shall preclude the State from reserving a larger percentage of funds to carry out the activities described in paragraph (1) and subsection (b).

**(b) Activities**

Funds reserved under subsection (a) shall be used to carry out no fewer than one of the following activities that will improve the quality of child care services provided in the State:

(1) Supporting the training and professional development of the child care workforce through activities such as those included under section 9858c(c)(2)(G) of this title, in addition to—

(A) offering training and professional development opportunities for child care providers that relate to the use of scientifically-based, developmentally-appropriate and age-appropriate strategies to promote the social, emotional, physical, and cognitive development of children, including those related to nutrition and physical activity, and offering specialized training for child care providers caring for those populations prioritized in section 9858c(c)(2)(Q) of this title, and children with disabilities;

(B) incorporating the effective use of data to guide program improvement;

(C) including effective behavior management strategies and training, including positive behavior interventions and support models, that promote positive social and emotional development and reduce challenging behaviors, including reducing expulsions of preschool-aged children for such behaviors;

(E)<sup>1</sup> providing training and outreach on engaging parents and families in culturally and linguistically appropriate ways to expand their knowledge, skills, and capacity to become meaningful partners in supporting their children's positive development;

(F) providing training corresponding to the nutritional and physical activity needs of children to promote healthy development;

(G) providing training or professional development for child care providers regarding the early neurological development of children; and

(H) connecting child care staff members of child care providers with available Federal and State financial aid, or other resources, that would assist child care staff members in pursuing relevant postsecondary training.

(2) Improving upon the development or implementation of the early learning and developmental guidelines described in section 9858c(c)(2)(T) of this title by providing technical assistance to eligible child care providers that enhances the cognitive, physical, social and emotional development, including early childhood development, of participating preschool and school-aged children and supports their overall well-being.

(3) Developing, implementing, or enhancing a tiered quality rating system for child care providers and services, which may—

(A) support and assess the quality of child care providers in the State;

(B) build on State licensing standards and other State regulatory standards for such providers;

(C) be designed to improve the quality of different types of child care providers and services;

(D) describe the safety of child care facilities;

(E) build the capacity of State early childhood programs and communities to promote parents' and families' understanding of the State's early childhood system and the ratings of the programs in which the child is enrolled;

(F) provide, to the maximum extent practicable, financial incentives and other supports designed to expand the full diversity of child care options and help child care providers improve the quality of services; and

(G) accommodate a variety of distinctive approaches to early childhood education and care, including but not limited to, those practiced in faith-based settings, community-based settings, child-centered settings, or similar settings that offer a distinctive approach to early childhood development.

<sup>1</sup> So in original. No subpar. (D) has been enacted.

(4) Improving the supply and quality of child care programs and services for infants and toddlers through activities, which may include—

(A) establishing or expanding high-quality community or neighborhood-based family and child development centers, which may serve as resources to child care providers in order to improve the quality of early childhood services provided to infants and toddlers from low-income families and to help eligible child care providers improve their capacity to offer high-quality, age-appropriate care to infants and toddlers from low-income families;

(B) establishing or expanding the operation of community or neighborhood-based family child care networks;

(C) promoting and expanding child care providers' ability to provide developmentally appropriate services for infants and toddlers through training and professional development; coaching and technical assistance on this age group's unique needs from statewide networks of qualified infant-toddler specialists; and improved coordination with early intervention specialists who provide services for infants and toddlers with disabilities under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(D) if applicable, developing infant and toddler components within the State's quality rating system described in paragraph (3) for child care providers for infants and toddlers, or the development of infant and toddler components in a State's child care licensing regulations or early learning and development guidelines;

(E) improving the ability of parents to access transparent and easy to understand consumer information about high-quality infant and toddler care; and

(F) carrying out other activities determined by the State to improve the quality of infant and toddler care provided in the State, and for which there is evidence that the activities will lead to improved infant and toddler health and safety, infant and toddler cognitive and physical development, or infant and toddler well-being, including providing health and safety training (including training in safe sleep practices, first aid, and cardiopulmonary resuscitation) for providers and caregivers.

(5) Establishing or expanding a statewide system of child care resource and referral services.

(6) Facilitating compliance with State requirements for inspection, monitoring, training, and health and safety, and with State licensing standards.

(7) Evaluating and assessing the quality and effectiveness of child care programs and services offered in the State, including evaluating how such programs positively impact children.

(8) Supporting child care providers in the voluntary pursuit of accreditation by a national accrediting body with demonstrated, valid, and reliable program standards of high quality.

(9) Supporting State or local efforts to develop or adopt high-quality program standards relating to health, mental health, nutrition, physical activity, and physical development.

(10) Carrying out other activities determined by the State to improve the quality of child care services provided in the State, and for which measurement of outcomes relating to improved provider preparedness, child safety, child well-being, or entry to kindergarten is possible.

#### **(c) Certification**

Beginning with fiscal year 2016, at the beginning of each fiscal year, the State shall annually submit to the Secretary a certification containing an assurance that the State was in compliance with subsection (a) during the preceding fiscal year and a description of how the State used funds received under this subchapter to comply with subsection (a) during that preceding fiscal year.

#### **(d) Reporting requirements**

Each State receiving funds under this subchapter shall prepare and submit an annual report to the Secretary, which shall include information about—

(1) the amount of funds that are reserved under subsection (a);

(2) the activities carried out under this section; and

(3) the measures that the State will use to evaluate the State's progress in improving the quality of child care programs and services in the State.

#### **(e) Technical assistance**

The Secretary shall offer technical assistance, in accordance with section 9858g(a)(3) of this title, which may include technical assistance through the use of grants or cooperative agreements, to States for the activities described in subsection (b) at the request of the State.

#### **(f) Construction**

Nothing in this section shall be construed as providing the Secretary the authority to regulate, direct, dictate, or place conditions (outside of what is required by this subchapter) on a State adopting specific State child care quality activities or progress in implementing those activities.

(Pub. L. 97-35, title VI, § 658G, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-241; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, § 607, Aug. 22, 1996, 110 Stat. 2283; Pub. L. 113-186, § 6, Nov. 19, 2014, 128 Stat. 1987.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Individuals with Disabilities Education Act, referred to in subsec. (b)(4)(C), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

##### **AMENDMENTS**

2014—Pub. L. 113-186 amended section generally. Prior to amendment, text read as follows: "A State that re-

ceives funds to carry out this subchapter for a fiscal year, shall use not less than 4 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).”

1996—Pub. L. 104-193 reenacted section catchline without change and amended text generally, substituting current provisions for provisions requiring State receiving financial assistance under this subchapter to utilize not less than 20 percent of such assistance for one or more of following: resource and referral programs, grants or loans to assist in meeting State and local standards, monitoring of compliance with licensing and regulatory requirements, training, or improving salaries or other compensation to staff.

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

#### § 9858f. Criminal background checks

##### (a) In general

A State that receives funds to carry out this subchapter shall have in effect—

(1) requirements, policies, and procedures to require and conduct criminal background checks for child care staff members (including prospective child care staff members) of child care providers described in subsection (c)(1); and

(2) licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in subsection (c).

##### (b) Requirements

A criminal background check for a child care staff member under subsection (a) shall include—

(1) a search of the State criminal and sex offender registry or repository in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;

(2) a search of State-based child abuse and neglect registries and databases in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;

(3) a search of the National Crime Information Center;

(4) a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and

(5) a search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).<sup>1</sup>

##### (c) Prohibitions

###### (1) Child care staff members

A child care staff member shall be ineligible for employment by a child care provider that

is receiving assistance under this subchapter if such individual—

(A) refuses to consent to the criminal background check described in subsection (b);

(B) knowingly makes a materially false statement in connection with such criminal background check;

(C) is registered, or is required to be registered, on a State sex offender registry or repository or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.);<sup>1</sup> or

(D) has been convicted of a felony consisting of—

(i) murder, as described in section 1111 of title 18;

(ii) child abuse or neglect;

(iii) a crime against children, including child pornography;

(iv) spousal abuse;

(v) a crime involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) subject to subsection (e)(4), a drug-related offense committed during the preceding 5 years; or

(E) has been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.

##### (2) Child care providers

A child care provider described in subsection (i)(1) shall be ineligible for assistance provided in accordance with this subchapter if the provider employs a staff member who is ineligible for employment under paragraph (1).

##### (d) Submission of requests for background checks

###### (1) In general

A child care provider covered by subsection (c) shall submit a request, to the appropriate State agency designated by a State, for a criminal background check described in subsection (b), for each child care staff member (including prospective child care staff members) of the provider.

###### (2) Staff members

Subject to paragraph (4), in the case of an individual who became a child care staff member before November 19, 2014, the provider shall submit such a request—

(A) prior to the last day described in subsection (j)(1); and

(B) not less often than once during each 5-year period following the first submission date under this paragraph for that staff member.

###### (3) Prospective staff members

Subject to paragraph (4), in the case of an individual who is a prospective child care staff member on or after November 19, 2014, the provider shall submit such a request—

<sup>1</sup> See References in Text note below.

(A) prior to the date the individual becomes a child care staff member of the provider; and

(B) not less than once during each 5-year period following the first submission date under this paragraph for that staff member.

**(4) Background check for another child care provider**

A child care provider shall not be required to submit a request under paragraph (2) or (3) for a child care staff member if—

(A) the staff member received a background check described in subsection (b)—

(i) within 5 years before the latest date on which such a submission may be made; and

(ii) while employed by or seeking employment by another child care provider within the State;

(B) the State provided to the first provider a qualifying background check result, consistent with this subchapter, for the staff member; and

(C) the staff member is employed by a child care provider within the State, or has been separated from employment from a child care provider within the State for a period of not more than 180 consecutive days.

**(e) Background check results and appeals**

**(1) Background check results**

The State shall carry out the request of a child care provider for a criminal background check as expeditiously as possible, but not to exceed 45 days after the date on which such request was submitted, and shall provide the results of the criminal background check to such provider and to the current or prospective staff member.

**(2) Privacy**

**(A) In general**

The State shall provide the results of the criminal background check to the provider in a statement that indicates whether a child care staff member (including a prospective child care staff member) is eligible or ineligible for employment described in subsection (c), without revealing any disqualifying crime or other related information regarding the individual.

**(B) Ineligible staff member**

If the child care staff member is ineligible for such employment due to the background check, the State will, when providing the results of the background check, include information related to each disqualifying crime, in a report to the staff member or prospective staff member.

**(C) Public release of results**

No State shall publicly release or share the results of individual background checks, except States may release aggregated data by crime as listed under subsection (c)(1)(D) from background check results, as long as such data is not personally identifiable information.

**(3) Appeals**

**(A) In general**

The State shall provide for a process by which a child care staff member (including a prospective child care staff member) may appeal the results of a criminal background check conducted under this section to challenge the accuracy or completeness of the information contained in such member's criminal background report.

**(B) Appeals process**

The State shall ensure that—

(i) each child care staff member shall be given notice of the opportunity to appeal;

(ii) a child care staff member will receive instructions about how to complete the appeals process if the child care staff member wishes to challenge the accuracy or completeness of the information contained in such member's criminal background report; and

(iii) the appeals process is completed in a timely manner for each child care staff member.

**(4) Review**

The State may allow for a review process through which the State may determine that a child care staff member (including a prospective child care staff member) disqualified for a crime specified in subsection (c)(1)(D)(ix) is eligible for employment described in subsection (c)(1), notwithstanding subsection (c). The review process shall be consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

**(5) No private right of action**

Nothing in this section shall be construed to create a private right of action if a provider has acted in accordance with this section.

**(f) Fees for background checks**

Fees that a State may charge for the costs of processing applications and administering a criminal background check as required by this section shall not exceed the actual costs to the State for the processing and administration.

**(g) Transparency**

The State must ensure that the policies and procedures under this section are published on the Web site (or otherwise publicly available venue in the absence of a Web site) of the State and the Web sites of local lead agencies.

**(h) Construction**

**(1) Disqualification for other crimes**

Nothing in this section shall be construed to prevent a State from disqualifying individuals as child care staff members based on their conviction for crimes not specifically listed in this section that bear upon the fitness of an individual to provide care for and have responsibility for the safety and well-being of children.

**(2) Rights and remedies**

Nothing in this section shall be construed to alter or otherwise affect the rights and remedies provided for child care staff members re-

siding in a State that disqualifies individuals as child care staff members for crimes not specifically provided for under this section.

**(i) Definitions**

In this section—

(1) the term “child care provider” means a center-based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that—

(A) is not an individual who is related to all children for whom child care services are provided; and

(B) is licensed, regulated, or registered under State law or receives assistance provided under this subchapter; and

(2) the term “child care staff member” means an individual (other than an individual who is related to all children for whom child care services are provided)—

(A) who is employed by a child care provider for compensation; or

(B) whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider.

**(j) Effective date**

**(1) In general**

A State that receives funds under this subchapter shall meet the requirements of this section for the provision of criminal background checks for child care staff members described in subsection (d)(1) not later than the last day of the second full fiscal year after November 19, 2014.

**(2) Extension**

The Secretary may grant a State an extension of time, of not more than 1 fiscal year, to meet the requirements of this section if the State demonstrates a good faith effort to comply with the requirements of this section.

**(3) Penalty for noncompliance**

Except as provided in paragraphs (1) and (2), for any fiscal year that a State fails to comply substantially with the requirements of this section, the Secretary shall withhold 5 percent of the funds that would otherwise be allocated to that State in accordance with this subchapter for the following fiscal year.

(Pub. L. 97–35, title VI, § 658H, as added Pub. L. 113–186, § 7, Nov. 19, 2014, 128 Stat. 1990.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Adam Walsh Child Protection and Safety Act of 2006, referred to in subsecs. (b)(5) and (c)(1)(C), is Pub. L. 109–248, July 27, 2006, 120 Stat. 587, which was classified principally to chapter 151 (§16901 et seq.) of this title, prior to editorial reclassification and renumbering as chapter 209 (§20901 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2006 Act note set out under section 10101 of Title 34 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (e)(4), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI

(§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

**PRIOR PROVISIONS**

A prior section 9858f, Pub. L. 97–35, title VI, § 658H, as added Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–241; amended Pub. L. 102–401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036, related to early childhood development and before- and after-school services, prior to repeal by Pub. L. 104–193, title VI, § 608, Aug. 22, 1996, 110 Stat. 2284.

**§ 9858g. Administration and enforcement**

**(a) Administration**

The Secretary shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

(2) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years;

(3) provide technical assistance, such as business technical assistance, as described in section 9858c(c)(2)(V) of this title, to States (which may include providing assistance on a reimbursable basis) which shall be provided by qualified experts on practices grounded in scientifically valid research, where appropriate, to carry out this subchapter;

(4) disseminate, for voluntary informational purposes, information on practices that scientifically valid research indicates are most successful in improving the quality of programs that receive assistance with this subchapter; and

(5) after consultation with the heads of any other Federal agencies involved, issue guidance and disseminate information on best practices regarding the use of funding combined by States as described in section 9858c(c)(2)(O)(ii) of this title, consistent with laws other than this subchapter.

**(b) Enforcement**

**(1) Review of compliance with State plan**

The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 9858c(c) of this title for the State.

**(2) Noncompliance**

**(A) In general**

If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 9858c(c) of this title for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and shall require that the State re-

imburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.

**(B) Additional sanctions**

In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

**(C) Notice**

The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

**(3) Issuance of rules**

The Secretary shall establish by rule procedures for—

(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

(B) imposing sanctions under this section.

**(c) Request for relief**

**(1) In general**

The Secretary may waive for a period of not more than three years any provision under this subchapter or sanctions imposed upon a State in accordance with subsection (b)(2) upon the State's request for such a waiver if the Secretary finds that—

(A) the request describes one or more conflicting or duplicative requirements preventing the effective delivery of child care services to justify a waiver, extraordinary circumstances, such as natural disaster or financial crisis, or an extended period of time for a State legislature to enact legislation to implement the provisions of this subchapter;

(B) such circumstances included in the request prevent the State from complying with any statutory or regulatory requirements of this subchapter;

(C) the waiver will, by itself, contribute to or enhance the State's ability to carry out the purposes of this subchapter; and,<sup>1</sup>

(D) the waiver will not contribute to inconsistency with the objectives of this law.

**(2) Contents**

Such request shall be provided to the Secretary in writing and will—

(A) detail each sanction or provision within this subchapter that the State seeks relief from;

(B) describe how a waiver from that sanction or provision of this subchapter will, by itself, improve delivery of child care services for children in the State; and

(C) certify that the health, safety, and well-being of children served through assistance received under this subchapter will not be compromised as a result of the waiver.

**(3) Approval**

Within 90 days after the receipt of a State's request under this subsection, the Secretary shall inform the State of approval or disapproval of the request. If the plan is disapproved, the Secretary shall, at this time, inform the State, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate of the reasons for the disapproval and give the State the opportunity to amend the request. In the case of approval, the Secretary shall, within 30 days of granting such waiver, notify and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the circumstances of the waiver including each specific sanction or provision waived, the reason as given by the State of the need for a waiver, and the expected impact of the waiver on children served under this program.

**(4) External conditions**

The Secretary shall not require or impose any new or additional requirements in exchange for receipt of a waiver if such requirements are not specified in this subchapter.

**(5) Duration**

The Secretary may approve a request under this subsection for a period not to exceed three years, unless a renewal is granted under paragraph (7).

**(6) Termination**

The Secretary shall terminate approval of a request for a waiver authorized under this subsection if the Secretary determines, after notice and opportunity for a hearing, that the performance of a State granted relief under this subsection has been inadequate, or if such relief is no longer necessary to achieve its original purposes.

**(7) Renewal**

The Secretary may approve or disapprove a request from a State for renewal of an existing waiver under this subchapter for a period no longer than one year. A State seeking to renew their waiver approval must inform the Secretary of this intent no later than 30 days prior to the expiration date of the waiver. The State shall re-certify in its extension request the provisions in paragraph (2) of this subchapter, and shall also explain the need for additional time of relief from such sanction(s) or provisions approved under this law as provided in this subchapter.

**(8) Restrictions**

Nothing in this subchapter shall be construed as providing the Secretary the author-

<sup>1</sup> So in original. The comma probably should not appear.

ity to permit States to alter the eligibility requirements for eligible children, including work requirements, job training, or educational program participation, that apply to the parents of eligible children under this subchapter. Nothing in this subsection shall be construed to allow the Secretary to waive anything related to his or her authority under this subchapter.

(Pub. L. 97–35, title VI, §658I, as added Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–242; amended Pub. L. 102–401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104–193, title VI, §609, Aug. 22, 1996, 110 Stat. 2284; Pub. L. 113–186, §8(a), (b), Nov. 19, 2014, 128 Stat. 1994, 1995.)

#### Editorial Notes

##### AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–186, §8(a)(1), inserted a comma after “publish” and struck out “and” at end.  
Subsec. (a)(3). Pub. L. 113–186, §8(a)(2), added par. (3) and struck out former par. (3) which read as follows: “provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.”

Subsec. (a)(4), (5). Pub. L. 113–186, §8(a)(3), added pars. (4) and (5).

Subsec. (c). Pub. L. 113–186, §8(b), added subsec. (c).

1996—Subsec. (b)(1). Pub. L. 104–193, §609(1), struck out “, and shall have the power to terminate payments to the State in accordance with paragraph (2)” before period at end.

Subsec. (b)(2)(A). Pub. L. 104–193, §609(2), in closing provisions, substituted before period at end “finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options” for “finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected”.

1992—Pub. L. 102–401 and Pub. L. 102–586 made identical technical corrections to directory language of Pub. L. 101–508, §5082(2), which added this section.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective Oct. 1, 1996, see section 615 of Pub. L. 104–193, set out as a note under section 9858 of this title.

#### § 9858h. Payments

##### (a) In general

Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 9858c(d) of this title shall be entitled to a payment under this section

for each fiscal year in an amount equal to its allotment under section 9858m of this title for such fiscal year.

##### (b) Method of payment

###### (1) In general

Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

###### (2) Limitation

The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 9858c(c)(3) of this title.

##### (c) Spending of funds by State

Payments to a State from the allotment under section 9858m of this title for any fiscal year may be obligated by the State in that fiscal year or in the succeeding fiscal year.

(Pub. L. 97–35, title VI, §658J, as added Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–243; amended Pub. L. 102–27, title III, §310, Apr. 10, 1991, 105 Stat. 153; Pub. L. 102–401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, §8(a), (c)(1), Nov. 4, 1992, 106 Stat. 5035, 5036; Pub. L. 103–171, §8, Dec. 2, 1993, 107 Stat. 1994; Pub. L. 104–193, title VI, §610, Aug. 22, 1996, 110 Stat. 2284.)

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (c). Pub. L. 104–193 substituted “obligated” for “expended” and “succeeding fiscal year” for “succeeding 3 fiscal years”.

1993—Subsec. (c). Pub. L. 103–171 made technical correction to directory language of Pub. L. 102–586, §8(a). See 1992 Amendment note below.

1992—Pub. L. 102–401 and Pub. L. 102–586, §8(c)(1), made identical technical corrections to directory language of Pub. L. 101–508, §5082(2), which added this section.

Subsec. (c). Pub. L. 102–586, §8(a), as amended by Pub. L. 103–171, substituted “expended” for “obligated” and “succeeding 3 fiscal years” for “succeeding fiscal year”.

1991—Subsec. (c). Pub. L. 102–27 substituted “obligated” for “expended”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective Oct. 1, 1996, see section 615 of Pub. L. 104–193, set out as a note under section 9858 of this title.

##### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–586, §8(d), Nov. 4, 1992, 106 Stat. 5036, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 9858q of this title and amending this section and section 9858n of this title] shall take effect on the date of enactment of this Act [Nov. 4, 1992].

“(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.”

**§ 9858i. Reports and audits****(a) Reports****(1) Collection of information by States****(A) In general**

A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

**(B) Required information**

The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter<sup>1</sup> information concerning—

- (i) family income;
- (ii) county of residence;
- (iii) the gender, race, and age of children receiving such assistance;
- (iv) whether the head of the family unit is a single parent;
- (v) the sources of family income, including—

- (I) employment, including self-employment;

- (II) cash or other assistance under—

- (aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

- (bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

- (III) housing assistance;

- (IV) assistance under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; and

- (V) other assistance programs;

- (vi) the number of months the family has received benefits;

- (vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

- (viii) whether the child care provider involved was a relative;

- (ix) the cost of child care for such families;

- (x) the average hours per month of such care; and

- (xi) whether the children receiving assistance under this subchapter are homeless children;

during the period for which such information is required to be submitted.

**(C) Submission to Secretary**

A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

**(D) Use of samples****(i) Authority**

A State may comply with the requirement to collect the information described

in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

**(ii) Sampling and other methods**

The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

**(E) Prohibition**

Reports submitted to the Secretary under subparagraph (C) shall not contain personally identifiable information.

**(2) Annual reports**

Not later than 1 year after November 19, 2014, and annually thereafter,<sup>2</sup> a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

- (A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 9858n(6) of this title;

- (B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

- (C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

- (D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

- (E) the total number (without duplication) of children and families served under this subchapter; and

- (F) the number of child fatalities occurring among children while in the care and facility of child care providers receiving assistance under this subchapter, listed by type of child care provider and indicating whether the providers (excluding child care providers described in section 9858n(6)(B) of this title) are licensed or license-exempt.<sup>3</sup>

during the period for which such report is required to be submitted.

**(b) Audits****(1) Requirement**

A State shall, after the close of each program period covered by an application approved under section 9858c(d) of this title audit its expenditures during such program period from amounts received under this subchapter.

<sup>2</sup> So in original.

<sup>3</sup> So in original. The period probably should be a semicolon.

<sup>1</sup> So in original. Probably should be followed by a comma.

**(2) Independent auditor**

Audits under this subsection shall be conducted by an entity that is independent of the State that receives assistance under this subchapter and be in accordance with generally accepted auditing principles.

**(3) Submission**

Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

**(4) Repayment of amounts**

Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitled under this subchapter.

(Pub. L. 97–35, title VI, §658K, as added Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–243; amended Pub. L. 102–401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104–193, title VI, §611, Aug. 22, 1996, 110 Stat. 2284; Pub. L. 105–33, title V, §5602(2), Aug. 5, 1997, 111 Stat. 646; Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(FF), May 22, 2008, 122 Stat. 1096, 1098; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(FF), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 113–186, §8(c), (e), Nov. 19, 2014, 128 Stat. 1996, 1998.)

**Editorial Notes****REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (a)(1)(B)(v)(II)(aa), 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 this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (a)(1)(B)(v)(IV), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

**CODIFICATION**

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

**AMENDMENTS**

2014—Subsec. (a)(1)(B)(xi). Pub. L. 113–186, §8(c)(1), which directed amendment of par. (1)(B) by adding cl. (xi) “at the end”, was executed by adding cl. (xi) after cl. (x), to reflect the probable intent of Congress and the presence of concluding provisions in par. (1)(B).

Subsec. (a)(1)(E). Pub. L. 113–186, §8(e), added subpar. (E).

Subsec. (a)(2). Pub. L. 113–186, §8(c)(2)(A), substituted “1 year after November 19, 2014, and annually thereafter,” for “December 31, 1997, and every 12 months thereafter” in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 113–186, §8(c)(2)(B), substituted “section 9858n(6)” for “section 9858n(5)”.

Subsec. (a)(2)(E). Pub. L. 113–186, §8(c)(2)(C), which directed substitution of “; and” for period at end, was executed by making the substitution for semicolon at end, to reflect the probable intent of Congress.

Subsec. (a)(2)(F). Pub. L. 113–186, §8(c)(2)(D), which directed amendment of par. (2) by adding subpar. (F) “at

the end”, was executed by adding subpar. (F) after subpar. (E), to reflect the probable intent of Congress and the presence of concluding provisions in par. (2).

2008—Subsec. (a)(1)(B)(v)(IV). Pub. L. 110–246, §4002(b)(1)(B), (2)(FF), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

1997—Subsec. (a)(1)(B)(iv). Pub. L. 105–33, §5602(2)(A)(i)(I), added cl. (iv) and struck out former cl. (iv) which read as follows: “whether the family includes only one parent;”.

Subsec. (a)(1)(B)(v). Pub. L. 105–33, §5602(2)(A)(i)(II)(aa), substituted “including—” for “including the amount obtained from (and separately identified)—” in introductory provisions.

Subsec. (a)(1)(B)(v)(II). Pub. L. 105–33, §5602(2)(A)(i)(II)(bb), added subcl. (II) and struck out former subcl. (II) which read as follows: “cash or other assistance under part A of title IV of the Social Security Act;”.

Subsec. (a)(1)(B)(x). Pub. L. 105–33, §5602(2)(A)(i)(III), substituted “month” for “week”.

Subsec. (a)(1)(D). Pub. L. 105–33, §5602(2)(A)(ii), added subpar. (D) and struck out heading and text of former subpar. (D). Text read as follows: “The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.”

Subsec. (a)(2). Pub. L. 105–33, §5602(2)(B), substituted “Annual” for “Biannual” in heading and “12” for “6” in introductory provisions of text.

1996—Pub. L. 104–193, §611(1), substituted “Reports” for “Annual report” in section catchline.

Subsec. (a). Pub. L. 104–193, §611(2), amended heading and text of subsec. (a) generally. Prior to amendment, text related to requirement of reports by Dec. 31, 1992, and annually thereafter, which include specification of expenditures under section 9858c(c)(3) of this title, data on fulfillment of child care needs, description of improvements in affordability and availability, description of review of State licensing and regulatory requirements and policies and results of review, explanation of any reductions in child care standards, and description of standards and health and safety requirements applicable to providers.

Subsec. (b)(1). Pub. L. 104–193, §611(2)(3)(A), substituted “an application approved” for “a application approved”.

Subsec. (b)(2). Pub. L. 104–193, §611(2)(3)(B), substituted “the State that receives” for “any agency administering activities that receive”.

Subsec. (b)(4). Pub. L. 104–193, §611(2)(3)(C), substituted “entitled under this subchapter” for “entitles under this subchapter”.

1992—Pub. L. 102–401 and Pub. L. 102–586 made identical technical corrections to directory language of Pub. L. 101–508, §5082(2), which added this section.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(FF) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5603 of Pub. L. 105–33, set out as a note under section 618 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–193 effective Oct. 1, 1996, see section 615 of Pub. L. 104–193, set out as a note under section 9858 of this title.

**§ 9858j. Reports, hotline, and Web site****(a) Report by Secretary**

Not later than July 31, 2016, and biennially thereafter, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 9858i of this title. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States. Such report shall contain a determination around whether each State that uses amounts provided under this subchapter has complied with the priority for services described in sections 9858c(c)(2)(Q) and 9858c(c)(3)(B) of this title.

**(b) National toll-free hotline and Web site****(1) In general**

The Secretary shall operate, directly or through the use of grants or contracts, a national toll-free hotline and Web site, to—

(A) develop and disseminate publicly available child care consumer education information for parents and help parents access safe and quality child care services in their community, with a range of price options, that best suits<sup>1</sup> their family's needs; and

(B) to allow persons to report (anonymously if desired) suspected child abuse or neglect, or violations of health and safety requirements, by an eligible child care provider that receives assistance under this subchapter or a member of the provider's staff.

**(2) Requirements**

The Secretary shall ensure that the hotline and Web site meet the following requirements:

**(A) Referral to local child care providers**

The Web site shall be hosted by "childcare.gov". The Web site shall enable a child care consumer to enter a zip code and obtain a referral to local child care providers described in subparagraph (B) within a specified search radius.

**(B) Information**

The Web site shall provide to consumers, directly or through linkages to State databases, at a minimum—

(i) a localized list of all eligible child care providers, differentiating between licensed and license-exempt providers;

(ii) any provider-specific information from a Quality Rating and Improvement System or information about other quality indicators, to the extent the information is publicly available and to the extent practicable;

(iii) any other provider-specific information about compliance with licensing, and

health and safety requirements to the extent the information is publicly available and to the extent practicable;

(iv) referrals to local resource and referral organizations from which consumers can find more information about child care providers; and

(v) State information about child care subsidy programs and other financial supports available to families.

**(C) Nationwide capacity**

The Web site and hotline shall have the capacity to help families in every State and community in the Nation.

**(D) Information at all hours**

The Web site shall provide, to parents and families, access to information about child care services 24 hours a day.

**(E) Services in different languages**

The Web site and hotline shall ensure the widest possible access to services for families who speak languages other than English.

**(F) High-quality consumer education and referral**

The Web site and hotline shall ensure that families have access to easy-to-understand child care consumer education and referral services.

**(3) Prohibition**

Nothing in this subsection shall be construed to allow the Secretary to compel States to provide additional data and information that is currently (as of November 19, 2014) not publicly available, or is not required by this subchapter, unless such additional data are related to the purposes and scope of this subchapter, and are subject to a notice and comment period of no less than 90 days.

(Pub. L. 97-35, title VI, §658L, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-244; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, §612, Aug. 22, 1996, 110 Stat. 2285; Pub. L. 105-33, title V, §5602(3), Aug. 5, 1997, 111 Stat. 646; Pub. L. 113-186, §8(d), Nov. 19, 2014, 128 Stat. 1997.)

**Editorial Notes****AMENDMENTS**

2014—Pub. L. 113-186 substituted "Reports, hotline, and Web site" for "Report by Secretary" in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted "2016" for "1998" and "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" for "to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate", inserted at end of subsec. (a) "Such report shall contain a determination around whether each State that uses amounts provided under this subchapter has complied with the priority for services described in sections 9858c(c)(2)(Q) and 9858c(c)(3)(B) of this title.", and added subsec. (b).

1997—Pub. L. 105-33 substituted "1998" for "1997".

1996—Pub. L. 104-193 substituted "July 31, 1997, and biennially thereafter" for "July 31, 1993, and annually

<sup>1</sup> So in original. Probably should be "suit".

thereafter” and “Committee on Economic and Educational Opportunities” for “Committee on Education and Labor”.

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

#### § 9858k. Limitations on use of financial assistance for certain purposes

##### (a) Sectarian purposes and activities

No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 9858c(c)(2)(A)(i)(I) of this title or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

##### (b) Tuition

With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

- (1) any services provided to such students during the regular school day;
- (2) any services for which such students receive academic credit toward graduation; or
- (3) any instructional services which supplant or duplicate the academic program of any public or private school.

(Pub. L. 97-35, title VI, § 658M, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-244; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

#### § 9858l. Nondiscrimination

##### (a) Religious nondiscrimination

##### (1) Construction

##### (A) In general

Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other

Federal law or regulation that relates to discrimination in employment on the basis of religion.

##### (B) Exception

A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

#### (2) Discrimination against child

##### (A) In general

A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

##### (B) Non-funded child care slots

Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

#### (3) Employment in general

##### (A) Prohibition

A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

##### (B) Qualified applicants

If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

##### (C) Present employees

This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on November 5, 1990.

#### (4) Employment and admission practices

Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate

against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

**(b) Effect on State law**

Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

(Pub. L. 97-35, title VI, § 658N, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-245; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

**Editorial Notes**

**AMENDMENTS**

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858m. Amounts reserved; allotments**

**(a) Amounts reserved**

**(1) Territories and possessions**

The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

**(2) Indians<sup>1</sup> tribes**

**(A) In general**

The Secretary shall reserve not less than 2 percent of the amount appropriated under section 9858 of this title in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

**(B) Limitations**

Notwithstanding subparagraph (A), the Secretary shall only reserve an amount that is greater than 2 percent of the amount appropriated under section 9858 of this title, for payments described in subparagraph (A), for a fiscal year (referred to in this subparagraph as the "reservation year") if—

(i) the amount appropriated under section 9858 of this title for the reservation year is greater than the amount appropriated under section 9858 of this title for fiscal year 2014; and

(ii) the Secretary ensures that the amount allotted to States under subsection (b) for the reservation year is not less than the amount allotted to States under subsection (b) for fiscal year 2014.

<sup>1</sup> So in original. Probably should be "Indian".

**(3) National toll-free hotline and Web site**

The Secretary shall reserve up to \$1,500,000 of the amount appropriated under this subchapter for each fiscal year for the operation of a national toll-free hotline and Web site, under section 9858j(b) of this title.

**(4) Technical assistance**

The Secretary shall reserve up to ½ of 1 percent of the amount appropriated under this subchapter for each fiscal year to support technical assistance and dissemination activities under paragraphs (3) and (4) of section 9858g(a) of this title.

**(5) Research, demonstration, and evaluation**

The Secretary may reserve ½ of 1 percent of the amount appropriated under this subchapter for each fiscal year to conduct research and demonstration activities, as well as periodic external, independent evaluations of the impact of the program described by this subchapter on increasing access to child care services and improving the safety and quality of child care services, using scientifically valid research methodologies, and to disseminate the key findings of those evaluations widely and on a timely basis.

**(b) State allotment**

**(1) General rule**

From the amounts appropriated under section 9858 of this title for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

**(2) Young child factor**

The term "young child factor" means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

**(3) School lunch factor**

The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

**(4) Allotment percentage**

**(A) In general**

The allotment percentage for a State is determined by dividing the per capita income

of all individuals in the United States, by the per capita income of all individuals in the State.

**(B) Limitations**

If an allotment percentage determined under subparagraph (A)—

- (i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and
- (ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

**(C) Per capita income**

For purposes of subparagraph (A), per capita income shall be—

- (i) determined at 2-year intervals;
- (ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and
- (iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

**(c) Payments for benefit of Indian children**

**(1) General authority**

From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

**(2) Applications and requirements**

An application for a grant or contract under this section shall provide that:

**(A) Coordination**

The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

**(B) Services on reservations**

In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

**(C) Reports and audits**

The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

**(D) Licensing and standards**

In lieu of any licensing and regulatory requirements applicable under State or local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter. Such standards shall appro-

priately reflect Indian tribe and tribal organization needs and available resources, and shall include standards requiring a publicly available application, health and safety standards, and standards requiring a reservation of funds for activities to improve the quality of child care services provided to Indian children.

**(3) Consideration of secretarial approval**

In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

**(4) Three-year limit**

Grants or contracts under this section shall be for periods not to exceed 3 years.

**(5) Dual eligibility of Indian children**

The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out under a grant to the State or States under this subchapter.

**(6) Construction or renovation of facilities**

**(A) Request for use of funds**

An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

**(B) Determination**

With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

**(C) Limitation**

**(i) In general**

Except as provided in clause (ii), the Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if the use will result in a decrease in the level of child care services provided by the Indian tribe or tribal

organization as compared to the level of child care services provided by the Indian tribe or tribal organization in the fiscal year preceding the year for which the termination under subparagraph (B) is being made.

**(ii) Waiver**

The Secretary shall waive the limitation described in clause (i) if—

(I) the Secretary determines that the decrease in the level of child care services provided by the Indian tribe or tribal organization is temporary; and

(II) the Indian tribe or tribal organization submits to the Secretary a plan that demonstrates that after the date on which the construction or renovation is completed—

(aa) the level of child care services will increase; or

(bb) the quality of child care services will improve.

**(D) Uniform procedures**

The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.

**(d) Data and information**

The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

**(e) Reallotments**

**(1) In general**

Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 9858c(d) of this title, in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

**(2) Limitations**

**(A) Reduction**

The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 9858c(d) of this title.

**(B) Reallotments**

The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

**(3) Amounts reallotted**

For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

**(4) Indian tribes or tribal organizations**

Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines

is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.

**(f) “State” defined**

For the purposes of this section, the term “State” includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 97-35, title VI, §658O, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-246; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, §613, Aug. 22, 1996, 110 Stat. 2286; Pub. L. 105-33, title V, §5602(4), Aug. 5, 1997, 111 Stat. 646; Pub. L. 106-78, title VII, §752(b)(17), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 113-186, §9, Nov. 19, 2014, 128 Stat. 1998.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(3), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

**AMENDMENTS**

2014—Subsec. (a)(2). Pub. L. 113-186, §9(1)(A), designated existing provisions as subpar. (A), inserted heading, substituted “2 percent” for “1 percent, and not more than 2 percent,” and added subpar. (B).

Subsec. (a)(3) to (5). Pub. L. 113-186, §9(1)(B), added pars. (3) to (5).

Subsec. (c)(2)(D). Pub. L. 113-186, §9(2)(A), added subpar. (D).

Subsec. (c)(6)(C). Pub. L. 113-186, §9(2)(B), added subpar. (C) and struck out former subpar. (C). Prior to amendment, text read as follows: “The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.”

1999—Subsec. (b)(3). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

1997—Subsec. (c)(6)(C). Pub. L. 105-33 substituted “subparagraph (B)” for “subparagraph (A)”.

1996—Subsec. (a)(1). Pub. L. 104-193, §613(1)(A), made technical amendment to heading, inserted “and” before “the Commonwealth of the Northern Mariana Islands”, and struck out “, and the Trust Territory of the Pacific Islands” before “to be allotted in accordance”.

Subsec. (a)(2). Pub. L. 104-193, §613(1)(B), substituted “less than 1 percent, and not more than 2 percent,” for “more than 3 percent”.

Subsec. (c)(5). Pub. L. 104-193, §613(2)(A), substituted “activities carried out” for “activities carried out”.

Subsec. (c)(6). Pub. L. 104-193, §613(2)(B), added par. (6).

Subsec. (e)(4). Pub. L. 104-193, §613(3), added par. (4).

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

**§ 9858n. Definitions**

As used in this subchapter:

**(1) Caregiver**

The term “caregiver” means an individual who provides a service directly to an eligible child on a person-to-person basis.

**(2) Child care certificate**

The term “child care certificate” means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

**(3) Child with a disability**

The term “child with a disability” means—

(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(C) a child who is less than 13 years of age and who is eligible for services under section 794 of title 29; and

(D) a child with a disability, as defined by the State involved.

**(4) Eligible child**

The term “eligible child” means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed 85 percent of the State median income for a family of the same size, and whose family assets do not exceed \$1,000,000 (as certified by a member of such family); and

(C) who—

(i) resides with a parent or parents who are working or attending a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

**(5) English learner**

The term “English learner” means an individual who is an English learner, as defined in

section 7801 of title 20, or who is limited English proficient, as defined in section 9832 of this title.

**(6) Eligible child care provider**

The term “eligible child care provider” means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed, regulated, or registered under State law as described in section 9858c(c)(2)(F) of this title; and

(ii) satisfies the State and local requirements, including those referred to in section 9858c(c)(2)(I) of this title;

applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

**(7) Family child care provider**

The term “family child care provider” means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

**(8) Indian tribe**

The term “Indian tribe” has the meaning given it in section 5304(e) of title 25.

**(9) Lead agency**

The term “lead agency” means the agency designated or established under section 9858b(a) of this title.

**(10) Parent**

The term “parent” includes a legal guardian, foster parent, or other person standing in loco parentis.

**(11) Scientifically valid research**

The term “scientifically valid research” includes applied research, basic research, and field-initiated research, for which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

**(12) Secretary**

The term “Secretary” means the Secretary of Health and Human Services unless the context specifies otherwise.

**(13) Sliding fee scale**

The term “sliding fee scale” means a system of cost sharing by a family based on income and size of the family.

**(14) State**

The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(15) Tribal organization****(A) In general**

The term “tribal organization” has the meaning given it in section 5304(l) of title 25.

**(B) Other organizations**

Such term includes a Native Hawaiian Organization, as defined in section 4909(4)<sup>1</sup> of title 20 and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

(Pub. L. 97–35, title VI, §658P, as added Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–248; amended Pub. L. 102–401, §3, Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, §8(c), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 103–171, §8, Dec. 2, 1993, 107 Stat. 1994; Pub. L. 104–193, title VI, §614, Aug. 22, 1996, 110 Stat. 2287; Pub. L. 105–33, title V, §5602(5), Aug. 5, 1997, 111 Stat. 646; Pub. L. 113–186, §10, Nov. 19, 2014, 128 Stat. 2000; Pub. L. 114–95, title IX, §9215(p)(2), Dec. 10, 2015, 129 Stat. 2170.)

**Editorial Notes****REFERENCES IN TEXT**

The Individuals with Disabilities Education Act, referred to in par. (3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

Section 4909 of title 20, referred to in par. (15)(B), was repealed by Pub. L. 103–382, title III, §363, Oct. 20, 1994, 108 Stat. 3975.

**AMENDMENTS**

2015—Par. (5). Pub. L. 114–95 substituted “an individual who is an English learner, as defined in section 7801 of title 20, or who is limited English proficient, as defined in section 9832 of this title” for “an individual who is limited English proficient, as defined in section 7801 of title 20 or section 9832 of this title”.

2014—Pars. (3), (4). Pub. L. 113–186, §10(1), added pars. (3) and (4) and struck out former par. (4) which defined “eligible child”.

Par. (5). Pub. L. 113–186, §10(3), added par. (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 113–186, §10(2), (4), redesignated par. (5) as (6) and substituted “9858c(c)(2)(F)” for “9858c(c)(2)(E)” in subpar. (A)(i) and “9858c(c)(2)(I)” for “9858c(c)(2)(F)” in subpar. (A)(ii). Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 113–186, §10(2), redesignated pars. (6) and (7) as (7) and (8), respectively. Former pars. (7) and (8) redesignated (8) and (9), respectively.

Par. (9). Pub. L. 113–186, §10(2), (5), redesignated par. (8) as (9) and substituted “designated or established under section 9858b(a)” for “designated under section 9858(a)”. Former par. (9) redesignated (10).

Par. (10). Pub. L. 113–186, §10(2), (6), redesignated par. (9) as (10) and inserted “, foster parent,” after “guardian”.

Pars. (11) to (15). Pub. L. 113–186, §10(7), (8), added par. (11) and redesignated former pars. (11) to (14) as (12) to (15), respectively.

1997—Par. (13). Pub. L. 105–33 substituted “and” for “or” after “American Samoa”.

1996—Par. (2). Pub. L. 104–193, §614(1), in first sentence, inserted “or as a deposit for child care services if such a deposit is required of other children being cared for by the provider” after “payment for child care services”.

Par. (3). Pub. L. 104–193, §614(2), struck out heading and text of par. (3). Text read as follows: “The term ‘elementary school’ means a day or residential school that provides elementary education, as determined under State law.”

Par. (4)(B). Pub. L. 104–193, §614(3), substituted “85 percent” for “75 percent”.

Par. (5)(B). Pub. L. 104–193, §614(4), inserted “great grandchild, sibling (if such provider lives in a separate residence),” after “grandchild,” struck out “is registered and” after “such provider”, and substituted “any applicable requirements” for “any State requirements”.

Par. (10). Pub. L. 104–193, §614(5), struck out heading and text of par. (10). Text read as follows: “The term ‘secondary school’ means a day or residential school which provides secondary education, as determined under State law.”

Par. (13). Pub. L. 104–193, §614(6), inserted “or” after “Samoa,” and struck out “, and the Trust Territory of the Pacific Islands” after “Northern Mariana Islands”.

Par. (14). Pub. L. 104–193, §614(7), designated existing text as subpar. (A), inserted heading, and added subpar. (B).

1993—Pars. (7), (14). Pub. L. 103–171 made technical correction to directory language of Pub. L. 102–586, §8(c)(2). See 1992 Amendment note below.

1992—Pub. L. 102–401, §3(a), and Pub. L. 102–586, §8(c)(1), made identical technical corrections to directory language of Pub. L. 101–508, §5082(2), which added this section.

Par. (7). Pub. L. 102–586, §8(c)(2)(A), as amended by Pub. L. 103–171, which directed the amendment of par. (7) by substituting “section 5304(e) of title 25” for “section 5304(b) of title 25”, could not be executed because the words “section 5304(b) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102–401, §3(b)(1). See below.

Pub. L. 102–401, §3(b)(1), substituted “section 5304(e) of title 25” for “section 5304(b) of title 25”.

Par. (14). Pub. L. 102–586, §8(c)(2)(B), as amended by Pub. L. 103–171, which directed the amendment of par. (14) by substituting “section 5304(l) of title 25” for “section 5304(c) of title 25”, could not be executed because the words “section 5304(c) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102–401, §3(b)(2). See below.

Pub. L. 102–401, §3(b)(2), substituted “section 5304(l) of title 25” for “section 5304(c) of title 25”.

**Statutory Notes and Related Subsidiaries****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 Title 20, Education.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5603 of Pub. L. 105–33, set out as a note under section 618 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–193 effective Oct. 1, 1996, see section 615 of Pub. L. 104–193, set out as a note under section 9858 of this title.

**EFFECTIVE DATE OF 1992 AMENDMENTS**

Amendment by Pub. L. 102–586 effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102–586, set out as a note under section 9858h of this title.

Amendment by Pub. L. 102–401 effective Oct. 7, 1992, but not applicable with respect to fiscal years begin-

<sup>1</sup> See References in Text note below.

ning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

**§ 9858o. Parental rights and responsibilities**

**(a) In general**

Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

**(b) Parental rights to use child care certificates**

Nothing in this subchapter shall be construed in a manner—

(1) to favor or promote the use of grants and contracts for the receipt of child care services under this subchapter over the use of child care certificates; or

(2) to disfavor or discourage the use of such certificates for the purchase of child care services, including those services provided by private or nonprofit entities, such as faith-based providers.

(Pub. L. 97-35, title VI, §658Q, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 113-186, §11, Nov. 19, 2014, 128 Stat. 2001.)

**Editorial Notes**

**AMENDMENTS**

2014—Subsec. (a). Pub. L. 113-186 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

**§ 9858p. Severability**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

(Pub. L. 97-35, title VI, §658R, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

**Editorial Notes**

**AMENDMENTS**

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

**§ 9858q. Miscellaneous provisions**

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.

(Pub. L. 97-35, title VI, §658S, as added Pub. L. 102-586, §8(b), Nov. 4, 1992, 106 Stat. 5035; amended Pub. L. 103-171, §8, Dec. 2, 1993, 107 Stat. 1994.)

**Editorial Notes**

**AMENDMENTS**

1993—Pub. L. 103-171 made technical correction to directory language of Pub. L. 102-586, §8(b), which added this section.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102-586, set out as an Effective Date of 1992 Amendment note under section 9858h of this title.

**§ 9858r. Studies on waiting lists**

**(a) Study**

The Comptroller General of the United States shall conduct studies to determine, for each State, the number of families that—

(1) are eligible to receive assistance under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.];

(2) have applied for the assistance, identified by the type of assistance requested; and

(3) have been placed on a waiting list for the assistance.

**(b) Report**

The Comptroller General shall prepare a report containing the results of each study and shall submit the report to the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives—

(1) not later than 2 years after November 19, 2014; and

(2) every 2 years thereafter.

**(c) Definition**

In this section, the term “State” has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(Pub. L. 113-186, §12, Nov. 19, 2014, 128 Stat. 2001.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(1), 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 this subchapter. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Child Care and Development Block Grant Act of 2014, and not as part of the Child Care and Development Block Grant Act of 1990, which comprises this subchapter.

**Statutory Notes and Related Subsidiaries**

**CHANGE OF NAME**

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

and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

## SUBCHAPTER II-C—CHILD CARE SAFETY AND HEALTH GRANTS

### Editorial Notes

#### CODIFICATION

This subchapter was enacted as part of title XIV of div. A of the Children's Health Act of 2000, and not as part of chapter 8 of subtitle A of title VI of Pub. L. 97-35 which comprises this chapter.

### § 9859. Definitions

In this subchapter:

#### (1) Child with a disability; infant or toddler with a disability

The terms “child with a disability” and “infant or toddler with a disability” have the meanings given the terms in sections 1401 and 1431 of title 20.

#### (2) Eligible child care provider

The term “eligible child care provider” means a provider of child care services for compensation, including a provider of care for a school-age child during non-school hours, that—

(A) is licensed, regulated, registered, or otherwise legally operating, under State and local law; and

(B) satisfies the State and local requirements,

applicable to the child care services the provider provides.

#### (3) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

#### (4) State

The term “State” means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 106-310, div. A, title XIV, § 1401, Oct. 17, 2000, 114 Stat. 1143.)

### § 9859a. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter \$200,000,000 for fiscal year 2001, and such sums as may be necessary for each subsequent fiscal year.

(Pub. L. 106-310, div. A, title XIV, § 1402, Oct. 17, 2000, 114 Stat. 1143.)

### § 9859b. Programs

The Secretary shall make allotments to eligible States under section 9859c of this title. The Secretary shall make the allotments to enable the States to establish programs to improve the health and safety of children receiving child care outside the home, by preventing illnesses and injuries associated with that care and promoting the health and well-being of children receiving that care.

(Pub. L. 106-310, div. A, title XIV, § 1403, Oct. 17, 2000, 114 Stat. 1143.)

### § 9859c. Amounts reserved; allotments

#### (a) Amounts reserved

The Secretary shall reserve not more than one-half of 1 percent of the amount appropriated under section 9859a of this title for each fiscal year to make allotments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

#### (b) State allotments

##### (1) General rule

From the amounts appropriated under section 9859a of this title for each fiscal year and remaining after reservations are made under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

##### (2) Young child factor

In this subsection, the term “young child factor” means the ratio of the number of children under 5 years of age in a State to the number of such children in all States, as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

##### (3) School lunch factor

In this subsection, the term “school lunch factor” means the ratio of the number of children who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) in the State to the number of such children in all States, as determined annually by the Department of Agriculture.

#### (4) Allotment percentage

##### (A) In general

For purposes of this subsection, the allotment percentage for a State shall be determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

##### (B) Limitations

If an allotment percentage determined under subparagraph (A) for a State—

(i) is more than 1.2 percent, the allotment percentage of the State shall be considered to be 1.2 percent; and

(ii) is less than 0.8 percent, the allotment percentage of the State shall be considered to be 0.8 percent.

**(C) Per capita income**

For purposes of subparagraph (A), per capita income shall be—

- (i) determined at 2-year intervals;
- (ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning after the date such determination is made; and
- (iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce on the date such determination is made.

**(c) Data and information**

The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

**(d) Definition**

In this section, the term “State” includes only the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 106-310, div. A, title XIV, § 1404, Oct. 17, 2000, 114 Stat. 1143.)

**Editorial Notes****REFERENCES IN TEXT**

The National School Lunch Act, referred to in subsec. (b)(3), probably means the Richard B. Russell National School Lunch Act, act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

**§ 9859d. State applications**

To be eligible to receive an allotment under section 9859c of this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall contain information assessing the needs of the State with regard to child care health and safety, the goals to be achieved through the program carried out by the State under this subchapter, and the measures to be used to assess the progress made by the State toward achieving the goals.

(Pub. L. 106-310, div. A, title XIV, § 1405, Oct. 17, 2000, 114 Stat. 1145.)

**§ 9859e. Use of funds****(a) In general**

A State that receives an allotment under section 9859c of this title shall use the funds made available through the allotment to carry out two or more activities consisting of—

- (1) providing training and education to eligible child care providers on preventing injuries and illnesses in children, and promoting health-related practices;
- (2) strengthening licensing, regulation, or registration standards for eligible child care providers;
- (3) assisting eligible child care providers in meeting licensing, regulation, or registration

standards, including rehabilitating the facilities of the providers, in order to bring the facilities into compliance with the standards;

(4) enforcing licensing, regulation, or registration standards for eligible child care providers, including holding increased unannounced inspections of the facilities of those providers;

(5) providing health consultants to provide advice to eligible child care providers;

(6) assisting eligible child care providers in enhancing the ability of the providers to serve children with disabilities and infants and toddlers with disabilities;

(7) conducting criminal background checks for eligible child care providers and other individuals who have contact with children in the facilities of the providers;

(8) providing information to parents on what factors to consider in choosing a safe and healthy child care setting; or

(9) assisting in improving the safety of transportation practices for children enrolled in child care programs with eligible child care providers.

**(b) Supplement, not supplant**

Funds appropriated pursuant to the authority of this subchapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for eligible individuals.

(Pub. L. 106-310, div. A, title XIV, § 1406, Oct. 17, 2000, 114 Stat. 1145.)

**§ 9859f. Reports**

Each State that receives an allotment under section 9859c of this title shall annually prepare and submit to the Secretary a report that describes—

- (1) the activities carried out with funds made available through the allotment; and
- (2) the progress made by the State toward achieving the goals described in the application submitted by the State under section 9859d of this title.

(Pub. L. 106-310, div. A, title XIV, § 1407, Oct. 17, 2000, 114 Stat. 1145.)

**SUBCHAPTER III—FOLLOW THROUGH PROGRAMS****PART I—DIRECT SERVICES****§§ 9861, 9862. Repealed. Pub. L. 103-382, title III, § 391(w), Oct. 20, 1994, 108 Stat. 4025**

Section 9861, Pub. L. 97-35, title VI, § 662, Aug. 13, 1981, 95 Stat. 508; Pub. L. 101-501, title II, § 202, Nov. 3, 1990, 104 Stat. 1243, authorized financial assistance for Follow Through programs.

Section 9862, Pub. L. 97-35, title VI, § 663, as added Pub. L. 101-501, title II, § 203, Nov. 3, 1990, 104 Stat. 1244; amended Pub. L. 102-119, § 26(c), Oct. 7, 1991, 105 Stat. 607, related to consideration of applications.

A prior section 9862, Pub. L. 97-35, title VI, § 663, Aug. 13, 1981, 95 Stat. 509; Pub. L. 98-558, title III, § 301, Oct. 30, 1984, 98 Stat. 2887; Pub. L. 99-425, title II, § 201(a), Sept. 30, 1986, 100 Stat. 966, related to funding requirements, prior to repeal by Pub. L. 101-501, title II, § 203, Nov. 3, 1990, 104 Stat. 1244.

## PART II—PROGRAM IMPROVEMENT

**§§ 9863 to 9865. Repealed. Pub. L. 103-382, title III, § 391(w), Oct. 20, 1994, 108 Stat. 4025**

Section 9863, Pub. L. 97-35, title VI, § 664, as added Pub. L. 101-501, title II, § 204(a), Nov. 3, 1990, 104 Stat. 1245, authorized financial assistance for research regarding Follow Through programs and approaches.

A prior section 9863, Pub. L. 97-35, title VI, § 664, Aug. 13, 1981, 95 Stat. 509, related to grants or contracts for research, demonstration, and pilot projects, prior to repeal by Pub. L. 101-501, title II, § 204(a), Nov. 3, 1990, 104 Stat. 1245.

Section 9863a, Pub. L. 97-35, title VI, § 664A, as added Pub. L. 101-501, title II, § 204(a), Nov. 3, 1990, 104 Stat. 1245, related to technical assistance and training.

Section 9863b, Pub. L. 97-35, title VI, § 664B, as added Pub. L. 101-501, title II, § 204(a), Nov. 3, 1990, 104 Stat. 1246, authorized grants to entities which operate, or previously operated, effective Follow Through programs.

Section 9863c, Pub. L. 97-35, title VI, § 664C, as added Pub. L. 101-501, title II, § 204(a), Nov. 3, 1990, 104 Stat. 1246, related to grant to establish national clearinghouse on Follow Through programs.

Section 9864, Pub. L. 97-35, title VI, § 665, Aug. 13, 1981, 95 Stat. 510; Pub. L. 101-501, title II, § 205, Nov. 3, 1990, 104 Stat. 1246, related to announcement of research and evaluation contracts.

Section 9865, Pub. L. 97-35, title VI, § 666, Aug. 13, 1981, 95 Stat. 510; Pub. L. 101-501, title II, § 206, Nov. 3, 1990, 104 Stat. 1247, related to continuing evaluation of programs under this subchapter.

## PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

**§§ 9866 to 9869. Repealed. Pub. L. 103-382, title III, § 391(w), Oct. 20, 1994, 108 Stat. 4025**

Section 9866, Pub. L. 97-35, title VI, § 667, as added Pub. L. 101-501, title II, § 207(a), Nov. 3, 1990, 104 Stat. 1247, related to authorization of appropriations to carry out this subchapter.

A prior section 9866, Pub. L. 97-35, title VI, § 667, Aug. 13, 1981, 95 Stat. 511, provided for technical assistance and training, prior to repeal by Pub. L. 101-501, title II, § 204(b), Nov. 3, 1990, 104 Stat. 1246.

Section 9867, Pub. L. 97-35, title VI, § 668, Aug. 13, 1981, 95 Stat. 511; Pub. L. 99-425, title II, § 201(b), Sept. 30, 1986, 100 Stat. 967; Pub. L. 101-501, title II, § 201(2), 209, Nov. 3, 1990, 104 Stat. 1243, 1248, related to special conditions on financial assistance.

Section 9868, Pub. L. 97-35, title VI, § 669, Aug. 13, 1981, 95 Stat. 511, related to applicability of other provisions to administration of this subchapter.

Section 9869, Pub. L. 97-35, title VI, § 669A, as added Pub. L. 101-501, title II, § 208, Nov. 3, 1990, 104 Stat. 1248, related to participation of entities that receive funds under this subchapter in other Federal educational activities and programs.

## SUBCHAPTER IV—GRANTS TO STATES FOR PLANNING AND DEVELOPMENT OF DEPENDENT CARE PROGRAMS AND FOR OTHER PURPOSES

## Editorial Notes

## CODIFICATION

Subchapter is based on subchapter E, formerly D, of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 98-558, title I, § 109, Oct. 30, 1984, 98 Stat. 2880, and amended and redesignated.

**§ 9871. Authorization of appropriations**

For the purpose of making allotments to States to carry out the activities described in

section 9874 of this title, there is authorized to be appropriated \$13,000,000 for fiscal year 1995.

(Pub. L. 97-35, title VI, § 670A, as added Pub. L. 98-558, title I, § 109, Oct. 30, 1984, 98 Stat. 2880; amended Pub. L. 99-425, title III, § 301, Sept. 30, 1986, 100 Stat. 967; Pub. L. 101-501, title III, § 301, Nov. 3, 1990, 104 Stat. 1248; Pub. L. 103-252, title I, § 122, May 18, 1994, 108 Stat. 650.)

## Editorial Notes

## AMENDMENTS

1994—Pub. L. 103-252 substituted “is authorized to be appropriated \$13,000,000 for fiscal year 1995” for “are authorized to be appropriated \$20,000,000 for each of the fiscal years 1990 and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994”.

1990—Pub. L. 101-501 substituted “are authorized” for “is authorized”, struck out “1987, 1988, 1989, and” before “1990”, and inserted “and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994” after “1990”.

1986—Pub. L. 99-425 amended section generally. Prior to amendment, section read as follows: “For the purpose of allotments to States to carry out the activities described in section 9874 of this title, there are authorized to be appropriated \$20,000,000 for each of the fiscal years 1985 and 1986.”

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

## SHORT TITLE

For short title of this subchapter as the “State Dependent Care Development Grants Act”, see section 670H of Pub. L. 97-35, set out as a note under section 9801 of this title.

**§ 9872. Allotments**

(a) From the amounts appropriated under section 9871 of this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than \$50,000 in each fiscal year.

(b) For the purpose of the exception contained in subsection (a), the term “State” does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 97-35, title VI, § 670B, as added Pub. L. 98-558, title I, § 109, Oct. 30, 1984, 98 Stat. 2880.)

**Executive Documents****TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**§ 9873. Payments under allotments to States**

The Secretary shall make payments, as provided by section 6503(a) of title 31, to each State from its allotments under section 9872 of this title from amounts appropriated under section 9871 of this title.

(Pub. L. 97-35, title VI, § 670C, as added Pub. L. 98-558, title I, § 109, Oct. 30, 1984, 98 Stat. 2880.)

**§ 9874. Use of allotments****(a) Referral systems; information; contents**

(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 9873 of this title from its allotment under section 9872 of this title may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system may include—

(A) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

(B) the costs of available dependent care services;

(C) the locations in which dependent care services are provided;

(D) the forms of transportation available to such locations;

(E) the hours during which such dependent care services are available;

(F) the dependents eligible to enroll for such dependent care services; and

(G) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

(B) provide assurances that the information provided will be the latest information available and will be kept up to date.

**(b) School-age child care services; assurances; estimates**

(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 9873 of this title from its allotment under section 9872 of this title may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly,

or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school. Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

(ii) the restrictions, if any, on the use of such space, and

(iii) the times when the space will be available for the use of the applicant;

(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;<sup>1</sup>

(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse school-age children, as well as handicapped school-age children, in the child care service program for which assistance is sought under this Act;<sup>1</sup>

(E) provide assurances that the child care program is in compliance with State and local child care licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

(F) provide such other assurances as the chief executive officer of the State may reasonably require to carry out this Act.<sup>1</sup>

**(c) Percentage of allotment; waiver**

(1) Except as provided in paragraph (2), of the allotment to each State in each fiscal year—

(A) 40 percent shall be available for the activities described in subsection (a);

(B) 60 percent shall be available for the activities described in subsection (b).

(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

(B) the adequacy of the alternative percentages, relative to need, the State specifies the

<sup>1</sup> So in original. Probably should be "subchapter".

State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.

**(d) Prohibition; use of amounts**

A State may not use amounts paid to it under this subchapter to—

- (1) make cash payments to intended recipients of dependent care services including child care services;
- (2) pay for construction or renovation; or
- (3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

**(e) Federal share; cost of administration**

(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

**(f) Duplication of services**

Projects supported under this section to plan, develop, establish, expand, operate, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which are provided before October 30, 1984, by the State or locality which will be served by such system.

**(g) Technical assistance to States; planning and operational activities**

The Secretary may provide technical assistance to States in planning and carrying out activities under this subchapter.

(Pub. L. 97-35, title VI, § 670D, as added Pub. L. 98-558, title I, § 109, Oct. 30, 1984, 98 Stat. 2880; amended Pub. L. 99-425, title III, § 302, Sept. 30, 1986, 100 Stat. 967; Pub. L. 101-501, title III, §§ 302, 303, 305(a), Nov. 3, 1990, 104 Stat. 1249, 1250.)

**Editorial Notes**

**REFERENCES IN TEXT**

This Act, referred to in subsec. (b)(2)(C), (D), (F), is Pub. L. 97-35, known as the Omnibus Budget Reconciliation Act of 1981, but probably should have been “this subchapter”, meaning subchapter E of chapter 8 of subtitle A of title VI of Pub. L. 97-35, known as the State Dependent Care Development Grants Act, which is classified to this subchapter.

**AMENDMENTS**

1990—Subsec. (a)(1). Pub. L. 101-501, §§ 303(a)(1), 305(a)(1), inserted “operation,” after “establishment,” and struck out “for fiscal year 1985 and fiscal year 1986” before “may be used”.

Subsec. (b)(1). Pub. L. 101-501, §§ 303(a)(2), (3), 305(a)(2), struck out “for fiscal year 1985 and fiscal year 1986” before “may be used”, inserted “operation,” after “establishment,”, struck out “in public or private school facilities or in community centers in communities” after “before and after school”, and inserted at end “Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.”

Subsec. (b)(2)(D). Pub. L. 101-501, § 305(a)(3)(A), inserted “school-age children,” after “diverse” and inserted comma after last reference to “children”.

Subsec. (b)(2)(F). Pub. L. 101-501, § 305(a)(3)(B), substituted “chief executive officer of the State” for “Gov-

ernor” and struck out “the provisions of” before “this Act”.

Subsec. (c). Pub. L. 101-501, § 302, designated existing provision as par. (1), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively, substituted “Except as provided in paragraph (2), of” for “Of”, and added par. (2).

Subsec. (d). Pub. L. 101-501, § 303(b), redesignated pars. (2), (4), and (5) as (1), (2), and (3), respectively, and struck out former pars. (1) and (3) which read as follows:

“(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a) of this section;

“(3) subsidize the direct provision of dependent care services including child care services;”.

Subsec. (d)(1). Pub. L. 101-501, § 305(a)(4), which directed the substitution of “subsections (a) and (b) of this section” for “subsection (a) of this section”, could not be executed because of the intervening amendment by Pub. L. 101-501, § 303(b), see above.

Subsec. (f). Pub. L. 101-501, §§ 303(a)(4), 305(a)(5), inserted “operate,” after “expand,” and substituted “which are provided before October 30, 1984,” for “, which prior to October 30, 1984, are provided”.

Subsec. (g). Pub. L. 101-501, § 305(a)(6), substituted “carrying out activities” for “operating activities to be carried out”.

1986—Subsec. (a). Pub. L. 99-425, § 302(a), designated existing provisions as par. (1), substituted “system may include” for “system shall include”, redesignated cls. (1) to (7) as (A) to (G), respectively, struck out last sentence which read as follows: “In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided”, and added par. (2).

Subsec. (b)(1). Pub. L. 99-425, § 302(b)(1), struck out “where school facilities are not available” after “centers in communities”.

Subsec. (b)(2)(E). Pub. L. 99-425, § 302(b)(2), inserted “child care” before “licensing laws”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

**§ 9875. Application and description of activities; requirements**

**(a) Applications**

(1) In order to receive an allotment under section 9872 of this title, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

(2) Each application required under paragraph (1) for an allotment under section 9872 of this title shall contain assurances that the State will meet the requirements of subsection (b).

**(b) Certifications**

As part of the annual application required by subsection (a), the chief executive officer of each State shall—

- (1) certify that the State agrees to use the funds allotted to it under section 9872 of this

title in accordance with the requirements of this subchapter; and

(2) certify that the State agrees that Federal funds made available under section 9873 of this title for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

**(c) Description; intended use of payments; comments; revision**

(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 9873 of this title, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1991, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(2) The chief executive officer of each State shall include in such a description of—

(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

(C) the salary level and benefits paid to employees in such child care programs; and

(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.

**(d) Application to Public Health Service Act**

Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b) [42 U.S.C. 300w-2(b)], paragraphs (1) through (5) of section 1906(a)<sup>1</sup> [42 U.S.C. 300w-5(a)], and sections 1906(b), 1907, 1908, and 1909 [42 U.S.C. 300w-5(b), 300w-6, 300w-7, 300w-8] of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act [42 U.S.C. 300w et seq.].

(Pub. L. 97-35, title VI, §670E, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2882; amended Pub. L. 101-501, title III, §§304, 305(b), Nov. 3, 1990, 104 Stat. 1249, 1250.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Public Health Service Act, referred to in subsec. (d), is act July 1, 1944, ch. 373, 58 Stat. 682. Part A of title XIX of the Public Health Service Act is classified generally to part A (§300w et seq.) of subchapter XVII of chapter 6A of this title. Section 1906(a) of the Act, which is classified to section 300w-5(a) of this title, was amended generally by Pub. L. 102-531, title I, §104(a), Oct. 27, 1992, 106 Stat. 3473, and, as so amended, consists of pars. (1) to (4) rather than pars. (1) to (5). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

**AMENDMENTS**

1990—Subsec. (c). Pub. L. 101-501, §305(b), which directed that “until September 30, 1987,” be struck out, could not be executed, because of the intervening amendment by Pub. L. 101-501, §304, see below.

Pub. L. 101-501, §304, designated existing provisions as par. (1), substituted “September 30, 1991” for “September 30, 1987”, and added par. (2).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

**§ 9876. Report**

Within three years after October 30, 1984, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

(Pub. L. 97-35, title VI, §670F, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2883.)

**Statutory Notes and Related Subsidiaries**

**CHANGE OF NAME**

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

**§ 9877. Definitions**

For purposes of this subchapter—

(1) the term “community center” means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

(2) the term “dependent” means—

(A) an individual who has not attained the age of 17 years;

(B) an individual who has attained the age of 55 years; or

(C) an individual with a developmental disability;

(3) the term “developmental disability” has the same meaning as in section 15002 of this title;

(4) the term “equipment” has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;<sup>1</sup>

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

(5) the term “institution of higher education” has the same meaning given that term under section 1001 of title 20;

(6) the term “local educational agency” has the same meaning given that term under section 7801 of title 20;

(7) the term “school-age children” means children aged five through thirteen, except that in any State in which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five;

(8) the term “school facilities” means classrooms and related facilities used for the provision of education;

(9) the term “Secretary” means the Secretary of Health and Human Services;

(10) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Commonwealth of the Northern Mariana Islands; and

(11) the term “State educational agency” has the meaning given that term under section 7801<sup>1</sup> of title 20.

(Pub. L. 97–35, title VI, § 670G, as added Pub. L. 98–558, title I, § 109, Oct. 30, 1984, 98 Stat. 2883; amended Pub. L. 99–425, title III, § 303, Sept. 30, 1986, 100 Stat. 967; Pub. L. 101–501, title III, § 305(c), Nov. 3, 1990, 104 Stat. 1250; Pub. L. 103–382, title III, § 394(l), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, § 102(a)(13)(H), Oct. 7, 1998, 112 Stat. 1621; Pub. L. 106–402, title IV, § 401(b)(12), Oct. 30, 2000, 114 Stat. 1739; Pub. L. 107–110, title X, § 1076(dd), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 114–95, title IX, § 9215(rrr), Dec. 10, 2015, 129 Stat. 2189.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in par. (4), is section 198 of Pub. L. 89–10, title I, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of Title 20, Education, prior to the general revision of Pub. L. 89–10 by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140.

Section 7801 of title 20, referred to in par. (11), was in the original a reference to section 9101 of Pub. L. 89–10, which was renumbered section 8101 by Pub. L. 114–95, title VIII, § 8001(a)(1), Dec. 10, 2015, 129 Stat. 2089.

#### AMENDMENTS

2015—Par. (6). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2002—Pars. (6), (11). Pub. L. 107–110 substituted “7801” for “8801”.

2000—Par. (3). Pub. L. 106–402 substituted “section 15002 of this title” for “section 6001(7) of this title”.

1998—Par. (5). Pub. L. 105–244, which directed amendment of section 670G(5) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9877(5)) by substituting “section 1001” for “section 1141(a)”, was executed to this section, which is section 670G(5) of subchapter E of chapter 8 of subtitle A of title VI of Pub. L. 97–35, known as the State Dependent Care Development Grants Act, to reflect the probable intent of Congress.

1994—Par. (6). Pub. L. 103–382, § 394(l)(1), substituted “section 8801 of title 20” for “section 198(a)(10) of the Elementary and Secondary Education Act of 1965”.

Par. (11). Pub. L. 103–382, § 394(l)(2), substituted “section 8801 of title 20” for “section 198(a)(17) of the Elementary and Secondary Education Act of 1965”.

1990—Par. (2)(C). Pub. L. 101–501, § 305(c)(1), substituted “an individual” for “a person”.

Par. (7). Pub. L. 101–501, § 305(c)(2), inserted “in” after first reference to “State”.

Par. (10). Pub. L. 101–501, § 305(c)(3), substituted “Federated States of Micronesia, the Republic of the Marshall Islands, Palau” for “Trust Territory of the Pacific Islands”.

1986—Par. (7). Pub. L. 99–425 inserted “, except that in any State which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five”.

### Statutory Notes and Related Subsidiaries

#### 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 Title 20, Education.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99–425, set out as a note under section 8621 of this title.

### SUBCHAPTER V—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

#### §§ 9881 to 9887. Repealed. Pub. L. 103–252, title I, § 112(b)(1), (2)(B), May 18, 1994, 108 Stat. 640, 641

Section 9881, Pub. L. 97–35, title VI, § 670N, as added Pub. L. 100–297, title II, § 2503, Apr. 28, 1988, 102 Stat. 326, authorized Comprehensive Child Development Program for pre-school children. See section 9840a of this title.

Section 9882, Pub. L. 97–35, title VI, § 670O, as added Pub. L. 100–297, title II, § 2503, Apr. 28, 1988, 102 Stat. 328, proscribed Secretary from taking into consideration, when making a grant under former section 9881, whether the applicant had applied or received funds under subchapter II of this chapter, relating to the Head Start program.

Section 9883, Pub. L. 97–35, title VI, § 670P, as added Pub. L. 100–297, title II, § 2503, Apr. 28, 1988, 102 Stat. 329, related to applicability to this subchapter of rules and regulations prescribed to carry out subchapter II of this chapter to the extent that the services provided were similar.

Section 9884, Pub. L. 97–35, title VI, § 670Q, as added Pub. L. 100–297, title II, § 2503, Apr. 28, 1988, 102 Stat. 329, directed Secretary to continually evaluate projects under this subchapter.

Section 9885, Pub. L. 97–35, title VI, § 670R, as added Pub. L. 100–297, title II, § 2503, Apr. 28, 1988, 102 Stat. 329,

directed Secretary to carry out this subchapter through the administrative entity used to carry out subchapter II of this chapter.

Section 9886, Pub. L. 97-35, title VI, §670S, as added Pub. L. 100-297, title II, §2503, Apr. 28, 1988, 102 Stat. 329; amended Pub. L. 102-119, §26(a), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-382, title III, §391(x), Oct. 20, 1994, 108 Stat. 4025, provided definitions for terms used in this subchapter.

Section 9887, Pub. L. 97-35, title VI, §670T, as added Pub. L. 100-297, title II, §2503, Apr. 28, 1988, 102 Stat. 330; amended Pub. L. 101-501, title VIII, §801, Nov. 3, 1990, 104 Stat. 1261, authorized appropriations to carry out this subchapter.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

#### COMPREHENSIVE CHILD DEVELOPMENT PROGRAM; CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 100-297, title II, part E, §2502, Apr. 28, 1988, 102 Stat. 325, provided that it is the purpose of part E of title II of Pub. L. 100-297 to provide financial assistance to projects that target and support infants and young children from low-income families, enhance their development, and provide support for their parents and other family members, prior to repeal by Pub. L. 103-252, title I, §112(b)(1), (2)(A), May 18, 1994, 108 Stat. 640, 641.

#### CONSOLIDATION OF CHILD DEVELOPMENT PROGRAMS

Pub. L. 103-252, title I, §112(b)(1), May 18, 1994, 108 Stat. 640, provided that: "In recognition that the Comprehensive Child Development Centers Act [enacting this subchapter, amending section 9833 of this title, and enacting provisions set out as notes under this section and section 9801 of this title] has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act [42 U.S.C. 9840a], the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.) are repealed."

### CHAPTER 106—COMMUNITY SERVICES BLOCK GRANT PROGRAM

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### Editorial Notes

#### CODIFICATION

The Community Services Block Grant Act, comprising this chapter, was originally enacted by subtitle B of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 511, and amended by Pub. L. 97-115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 98-288, May 21, 1984, 98 Stat. 189; Pub. L. 98-558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99-425, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-501, Nov. 3, 1990, 104 Stat. 1222; Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3359; Pub. L. 103-94, Oct. 6, 1993, 107 Stat. 1001; Pub. L. 103-171, Dec. 2, 1993, 107 Stat. 1988; Pub. L. 103-252, May 18, 1994, 108 Stat. 623. The Community Services Block Grant Act is shown herein, however, as having been added by Pub. L. 105-285, title II, §201, Oct. 27, 1998, 112 Stat. 2728, without reference to those intervening amendments because of the extensive revision of that Act by Pub. L. 105-285.

### § 9901. Purposes and goals

The purposes of this chapter are—

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(2) to accomplish the goals described in paragraph (1) through—

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this chapter to empower such residents and members to respond to the unique problems and needs within their communities; and