

(A) shall have the authority to disapprove a State plan only if the Secretary—

- (i) determines how the State plan fails to meet the requirements of this chapter; and
- (ii) provides to the eligible agency, in writing, notice of such determination and the supporting information and rationale to substantiate such determination; and

(B) shall not finally disapprove a State plan, except after making the determination and providing the information described in subparagraph (A), and giving the eligible agency notice and an opportunity for a hearing.

(Pub. L. 88-210, title I, §122, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 715; amended Pub. L. 113-128, title V, §512(e)(3), July 22, 2014, 128 Stat. 1706; Pub. L. 114-95, title IX, §9215(n)(6), Dec. 10, 2015, 129 Stat. 2169; Pub. L. 115-224, title I, §122, July 31, 2018, 132 Stat. 1600.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(3)(B), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title II of the Act is classified generally to subchapter II (§6601 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (d)(3)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 2342, Pub. L. 88-210, title I, §122, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3102, related to State plan, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2342, Pub. L. 88-210, title II, §235, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 783, related to uses of funds, prior to the general amendment of this chapter by Pub. L. 105-332.

Another prior section 2342, Pub. L. 88-210, title II, §252, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2457, related to criteria for program improvement, innovation, and expansion, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101-392.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-224, §122(1)(A), substituted “4-year period, consistent with subsection (b) and paragraph (5),” for “6-year period,” and “July 31, 2018” for “August 12, 2006”.

Subsec. (a)(2)(B). Pub. L. 115-224, §122(1)(B), substituted “4-year period” for “6-year period”.

Subsec. (a)(3). Pub. L. 115-224, §122(1)(C), substituted “(including teachers, faculty, specialized instructional support personnel, paraprofessionals, school leaders, authorized public chartering agencies and charter school leaders (consistent with State law), employers, labor organizations, parents, students, Indian Tribes and Tribal organizations that may be present in the State, and community organizations)” for “(including charter school authorizers and organizers consistent with State law, employers, labor organizations, parents, students, and community organizations)”.

Subsec. (a)(4), (5). Pub. L. 115-224, §122(1)(D), added pars. (4) and (5).

Subsecs. (b) to (f). Pub. L. 115-224, §122(2), added subsecs. (b) to (f) and struck out former subsecs. (b) to (e)

which related to development, contents, options, and approval of State plans.

2015—Subsec. (c)(1)(D)(i). Pub. L. 114-95, §9215(n)(6)(A), substituted “aligned with challenging State academic standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965” for “aligned with rigorous and challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965”.

Subsec. (c)(7)(A)(i). Pub. L. 114-95, §9215(n)(6)(B), substituted “a well-rounded education (as defined in section 8101 of the Elementary and Secondary Education Act of 1965)” for “the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965)”.

2014—Subsec. (b)(1)(A)(viii). Pub. L. 113-128, §512(e)(3)(A), substituted “entities participating in activities described in section 3111 of title 29” for “entities participating in activities described in section 2821 of title 29”.

Subsec. (c)(20). Pub. L. 113-128, §512(e)(3)(B), substituted “the description and information specified in subparagraphs (B) and (C)(iii) of section 3112(b)(2), and, as appropriate, section 3113(b)(3)(A), and section 3151(c), of title 29 concerning the provision of services only for postsecondary students and school dropouts” for “the description and information specified in sections 2822(b)(8) and 2841(c) of title 29 concerning the provision of services only for postsecondary students and school dropouts”.

Subsec. (d)(2). Pub. L. 113-128, §512(e)(3)(C), substituted “combined plan” for “501 plan” in heading and “as part of the plan submitted under section 3113 of title 29” for “as part of the plan submitted under section 501 of Public Law 105-220” in text.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

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

EFFECTIVE DATE OF 2015 AMENDMENT

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

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§ 2343. Improvement plans

(a) State program improvement

(1) Plan

If a State fails to meet at least 90 percent of the State determined level of performance for any of the core indicators of performance described in 2323(b)(2)¹ of this title for all CTE concentrators, the eligible agency shall develop and implement a program improvement plan (that includes an analysis of the performance disparities or gaps identified under section 2323(b)(3)(C)(ii)(II) of this title, and actions that will be taken to address such gaps) in consultation with the appropriate agencies,

¹ So in original. Probably should be preceded by “section”.

individuals, and organizations during the first program year succeeding the program year for which the eligible agency failed to so meet the State determined level of performance for any of the core indicators of performance.

(2) Technical assistance

If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 2342 of this title, or is not making substantial progress in meeting the purposes of this section, including after implementation of the improvement plan described in paragraph (1),² based on the State determined levels of performance, the Secretary shall work with the eligible agency to implement the improvement activities consistent with the requirements of this chapter.

(3) Subsequent action

(A) In general

The Secretary may, after notice and opportunity for a hearing, withhold from an eligible agency all, or a portion, of the eligible agency's allotment under paragraphs (2) and (3) of section 2322(a) of this title if the eligible agency—

- (i) fails to implement an improvement plan as described in paragraph (1); or
- (ii) with respect to any specific core indicator of performance that was identified in a program improvement plan under paragraph (1), fails to meet at least 90 percent of a State determined level of performance for such core indicator for 2 consecutive years after the eligible agency has been identified for improvement under such paragraph.

(B) Waiver for exceptional circumstances

The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(4) Funds resulting from reduced allotments

The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency to provide technical assistance, to assist in the development of an improved State improvement plan, or for other improvement activities consistent with the requirements of this chapter for such State.

(5) Adjustments prohibited

An eligible agency shall not be eligible to adjust performance levels while executing an improvement plan under this section.

(b) Local program improvement

(1) Local evaluation

Each eligible agency shall evaluate annually, using the local levels of performance described in section 2323(b)(4) of this title, the career and technical education activities of each eligible recipient receiving funds under this subchapter.

(2) Plan

If, after reviewing the evaluation in paragraph (1), the eligible agency determines that an eligible recipient failed to meet at least 90 percent of an agreed upon local level of performance for any of the core indicators of performance described in section 2323(b)(4) of this title for all CTE concentrators, the eligible recipient shall develop and implement a program improvement plan (that includes an analysis of the performance disparities or gaps identified under section 2323(b)(3)(C)(ii)(II) of this title, and actions that will be taken to address such gaps) in consultation with local stakeholders described in section 2354(d)(1) of this title, the eligible agency, and appropriate agencies, individuals, and organizations during the first program year succeeding the program year for which the eligible recipient failed to so meet any of the local levels of performance for any of the core indicators of performance.

(3) Technical assistance

If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 2354 of this title, or is not making substantial progress in meeting the purposes of this chapter, based on the local levels of performance, the eligible agency shall work with the eligible recipient to implement improvement activities consistent with the requirements of this chapter.

(4) Subsequent action

(A) In general

The eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion, of the eligible recipient's allotment under this subchapter if the eligible recipient—

- (i) fails to implement an improvement plan as described in paragraph (2); or
- (ii) with respect to any specific core indicator of performance that was identified in a program improvement plan under paragraph (2), fails to meet at least 90 percent of the local level of performance for such core indicator for 2 consecutive years after the eligible recipient has been identified for improvement under such paragraph.

(B) Waiver for exceptional circumstances

In determining whether to impose sanctions under subparagraph (A), the eligible agency may waive imposing sanctions—

- (i) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the eligible recipient;
- (ii) based on the impact on the eligible recipient's reported performance of the small size of the career and technical education program operated by the eligible recipient; or
- (iii) in response to a public request from an eligible recipient, if the eligible agency determines that the requirements described in clause (i) or (ii) have been met.

²So in original.

(5) Funds resulting from reduced allotments

The eligible agency shall use funds withheld under paragraph (4) from an eligible recipient to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purposes of this chapter.

(6) Adjustments prohibited

An eligible recipient shall not be eligible to adjust performance levels while executing an improvement plan under this section.

(Pub. L. 88-210, title I, §123, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 721; amended Pub. L. 115-224, title I, §123, July 31, 2018, 132 Stat. 1606.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 2343, Pub. L. 88-210, title I, §123, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3106, related to improvement plans, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2343, Pub. L. 88-210, title II, §240, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 784, related to local applications, prior to the general amendment of this chapter by Pub. L. 105-332.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-224, §123(1)(A), substituted “percent of the” for “percent of an agreed upon”, “State determined level of performance” for “State adjusted level of performance” in two places, “2323(b)(2) of this title for all CTE concentrators” for “section 2323(b)(3) of this title”, and “(that includes an analysis of the performance disparities or gaps identified under section 2323(b)(3)(C)(ii)(II) of this title, and actions that will be taken to address such gaps)” for “(with special consideration to performance gaps identified under section 2323(c)(2) of this title)”.

Subsec. (a)(2). Pub. L. 115-224, §123(1)(B), substituted “purposes of this section, including after implementation of the improvement plan described in paragraph (1),” for “purposes of this chapter” and “State determined levels of performance” for “State’s adjusted levels of performance”.

Subsec. (a)(3)(A)(ii), (iii). Pub. L. 115-224, §123(1)(C), added cl. (ii) and struck out former cls. (ii) and (iii) which read as follows:

“(ii) fails to make any improvement in meeting any of the State adjusted levels of performance for the core indicators of performance identified under paragraph (1) within the first program year of implementation of its improvement plan described in paragraph (1); or

“(iii) fails to meet at least 90 percent of an agreed upon State adjusted level of performance for the same core indicator of performance for 3 consecutive years.”

Subsec. (a)(5). Pub. L. 115-224, §123(1)(D), added par. (5).

Subsec. (b). Pub. L. 115-224, §123(2)(A), substituted “local level” for “local adjusted level” and “local levels” for “local adjusted levels” wherever appearing.

Subsec. (b)(2). Pub. L. 115-224, §123(2)(B)(ii), which directed substitution of “(that includes an analysis of the performance disparities or gaps identified under section 2323(b)(3)(C)(ii)(II) of this title, and actions that will be taken to address such gaps) in consultation with local stakeholders described in section 2354(d)(1) of this title, the eligible agency, and” for “(with special consideration to performance gaps identified under section 2323(b)(4)(C)(ii)(II) of this title in consultation with the eligible agency,”, was executed by making the substitution for text containing another closing parenthesis after “of this title”, to reflect the probable intent of Congress.

Pub. L. 115-224, §123(2)(B)(i), inserted “for all CTE concentrators” after “section 2323(b)(4) of this title”.

Subsec. (b)(4)(A)(ii), (iii). Pub. L. 115-224, §123(2)(C)(i), added cl. (ii) and struck out former cls. (ii) and (iii) which read as follows:

“(ii) fails to make any improvement in meeting any of the local adjusted levels of performance for the core indicators of performance identified under paragraph (2) within the first program year of implementation of its improvement plan described in paragraph (2); or

“(iii) fails to meet at least 90 percent of an agreed upon local adjusted level of performance for the same core indicator of performance for 3 consecutive years.”

Subsec. (b)(4)(B)(iii). Pub. L. 115-224, §123(2)(C)(ii), added cl. (iii).

Subsec. (b)(6). Pub. L. 115-224, §123(2)(D), added par. (6).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2018 AMENDMENT**

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

§ 2344. State leadership activities**(a) General authority**

From amounts reserved under section 2322(a)(2) of this title, each eligible agency shall—

(1) conduct State leadership activities to improve career and technical education, which shall include support for—

(A) preparation for non-traditional fields in current and emerging professions, programs for special populations, and other activities that expose students, including special populations, to high-skill, high-wage, and in-demand occupations;

(B) individuals in State institutions, such as State correctional institutions, including juvenile justice facilities, and educational institutions that serve individuals with disabilities;

(C) recruiting, preparing, or retaining career and technical education teachers, faculty, specialized instructional support personnel, or paraprofessionals, such as preservice, professional development, or leadership development programs; and

(D) technical assistance for eligible recipients; and

(2) report on the effectiveness of such use of funds in achieving the goals described in section 2342(d)(2) of this title and the State determined levels of performance described in section 2323(b)(3)(A) of this title, and reducing disparities or performance gaps as described in section 2323(b)(3)(C)(ii)(II) of this title.

(b) Permissible uses of funds

The State leadership activities described in subsection (a) may include—

(1) developing statewide programs of study, which may include standards, curriculum, and course development, and career exploration, guidance, and advisement activities and resources;

(2) approving locally developed programs of study that meet the requirements established in section 2342(d)(4)(B) of this title;

(3) establishing statewide articulation agreements aligned to approved programs of study;