

tion, ensure sufficient availability of seats in the public schools the local educational agency will make available for public school choice options;

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

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

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

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

(C) non-public entities;

(D) community-based organizations; or

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

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

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

(e) Providers and schools

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

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

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

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

(B) provides parents with meaningful choices;

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

(D) includes only providers that—

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

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

§ 6304. State administration

(a) In general

Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this subchapter, each State may reserve the greater of—

(1) 1 percent of the amounts received under such parts; or

(2) \$400,000 (\$50,000 in the case of each outlying area).

(b) Exception

If the sum of the amounts appropriated for parts A, C, and D of this subchapter is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if \$14,000,000,000 were allocated among the States for parts A, C, and D of this subchapter.

(Pub. L. 89-10, title I, §1004, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1444.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1004 of Pub. L. 89-10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§ 6311. State plans

(a) Filing for grants

(1) In general

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

(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents; and

(B) is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Rehabilitation Act of 1973 (20 U.S.C. 701 et seq.),¹ the Carl D. Perkins Career and Technical Education Act of 2006 (20

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

U.S.C. 2301 et seq.), the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.),² the Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.), the Education³ Technical Assistance Act of 2002 (20 U.S.C. 9601 et seq.), the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621 et seq.), the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), and the Adult Education and Family Literacy Act (29 U.S.C. 3271 et seq.).

(2) Limitation

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

(3) Consolidated plan

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

(4) Peer review and Secretarial approval

(A) In general

The Secretary shall—

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

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

(I) who are representative of—

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

(bb) researchers who are familiar with—

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

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

(II) that include, to the extent practicable, majority representation of individuals who, in the most recent 2 years, have had practical experience in the classroom, school administration, or State or local government (such as direct employees of a school, local educational agency, or State educational agency); and

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

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

(iv) ensure that the peer-review teams consist of varied individuals so that the

same peer reviewers are not reviewing all of the State plans;

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

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

(I) the Secretary—

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

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

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

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

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

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

(II) the State—

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

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

(B) Purpose of peer review

The peer-review process shall be designed to—

(i) maximize collaboration with each State;

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

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

(C) Standard and nature of review

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

(D) Prohibition

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

(5) Public review

All written communications, feedback, and notifications under this subsection shall be

² So in original. Probably should be "9857 et seq.",.

³ So in original. Probably should be "Educational".

conducted in a manner that is transparent and immediately made available to the public on the Department's website, including—

(A) plans submitted or resubmitted by a State;

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

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

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

(6) Duration of the plan

(A) In general

Each State plan shall—

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

(ii) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.

(B) Additional information

(i) In general

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

(ii) Review of revised plans

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

(iii) Special rule for standards

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

(7) Failure to meet requirements

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

(8) Public comment

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

(b) Challenging academic standards and academic assessments

(1) Challenging State academic standards

(A) In general

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

(B) Same standards

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

(i) apply to all public schools and public school students in the State; and

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

(C) Subjects

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

(D) Alignment

(i) In general

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

(ii) Rule of construction

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

(E) Alternate academic achievement standards for students with the most significant cognitive disabilities

(i) In general

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

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

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

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

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

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

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

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

(F) English language proficiency standards

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

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

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

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

(G) Prohibitions

(i) Standards review or approval

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

(ii) Federal control

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

(H) Existing standards

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

(2) Academic assessments

(A) In general

Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics, reading or language arts, and science. The State retains the right to implement such assessments in any other subject chosen by the State.

(B) Requirements

The assessments under subparagraph (A) shall—

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

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

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

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

(iii) be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information;

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

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

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

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

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

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12; and

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

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks;

(vii) provide for—

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

(II) the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the

Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards described in paragraph (1)(E); and

(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as determined under subparagraph (G);

(viii) at the State's discretion—

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

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

(ix) notwithstanding clause (vii)(III), provide for assessments (using tests in English) of reading or language arts of any student who has attended school in the United States (not including the Commonwealth of Puerto Rico) for 3 or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

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

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

(I) each major racial and ethnic group;

(II) economically disadvantaged students as compared to students who are not economically disadvantaged;

(III) children with disabilities as compared to children without disabilities;

(IV) English proficiency status;

(V) gender; and

(VI) migrant status,

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

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

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

(C) Exception for advanced mathematics in middle school

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

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

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

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

(I) is any end-of-course assessment or other assessment that is more advanced than the assessment taken by such student under clause (i) of this subparagraph; and

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

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

(i) Alternate assessments aligned with alternate academic achievement standards

A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1)(E) for students with the

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

most significant cognitive disabilities, if the State—

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

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

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

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

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

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

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

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

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

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

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

(bb) who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and

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

(ii) Special rules

(I) Responsibility under IDEA

Subject to the authority and requirements for the individualized education program team for a child with a disability under section

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

(II) Prohibition on local cap

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

(III) State support

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

(IV) Waiver authority

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

(E) State authority

If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt challenging State academic standards, and academic assessments aligned with such standards, which will be applicable to all students enrolled in the State’s public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

(i) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(ii) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic content and student academic achievement standards, and academic assessments aligned with such standards, which—

(I) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

(II) are applicable to all students served by each such local educational agency.

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

(F) Language assessments**(i) In general**

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

(ii) Secretarial assistance

The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

(G) Assessments of English language proficiency**(i) In general**

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

(ii) Alignment

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

(H) Locally-selected assessment**(i) In general**

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

(ii) State technical criteria

To allow for State approval of nationally-recognized high school academic assessments that are available for local selection under clause (i), a State educational agency shall establish technical criteria to determine if any such assessment meets the requirements of clause (v).

(iii) State approval

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

(I) conduct a review of the assessment to determine if such assessment meets or

exceeds the technical criteria established by the State educational agency under clause (ii);

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

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

(iv) Local educational agency option**(I) Local educational agency**

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

(II) State educational agency

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

(v) Requirements

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

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

(II) provide comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessments, for all students and for each subgroup of students defined in subsection (c)(2), with results expressed in terms consistent with the State's academic achievement standards under paragraph (1), among all local educational agencies within the State;

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

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

(vi) Parental notification

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

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

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

(I) Deferral

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

(J) Adaptive assessments

(i) In general

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

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

(II) such assessment—

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

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

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

In developing and administering computer adaptive assessments—

(I) as the assessments allowed under subparagraph (D), a State shall ensure that such computer adaptive assessments—

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

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

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

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

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

(K) Rule of construction on parent rights

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

(L) Limitation on assessment time

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

(3) Exception for recently arrived English learners

(A) Assessments

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

(i) exclude—

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

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

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

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

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

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

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

(B) English learner subgroup

With respect to a student previously identified as an English learner and for not more

than 4 years after the student ceases to be identified as an English learner, a State may include the results of the student's assessments under paragraph (2)(B)(v)(I) within the English learner subgroup of the subgroups of students (as defined in subsection (c)(2)(D)) for the purposes of the State-determined accountability system.

(c) Statewide accountability system

(1) In general

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

(2) Subgroup of students

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

- (A) economically disadvantaged students;
- (B) students from major racial and ethnic groups;
- (C) children with disabilities; and
- (D) English learners.

(3) Minimum number of students

Each State shall describe—

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

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

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

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

(4) Description of system

The statewide accountability system described in paragraph (1) shall be based on the challenging State academic standards for reading or language arts and mathematics described in subsection (b)(1) to improve student academic achievement and school success. In designing such system to meet the requirements of this part, the State shall carry out the following:

(A) Establishment of long-term goals

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

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

(I) for, at a minimum, improved—

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

(bb) high school graduation rates, including—

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

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

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

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

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

(B) Indicators

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

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

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

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

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

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

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

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

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

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

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

- (I) in each of the grades 3 through 8; and
- (II) in the grade for which such English learners are otherwise assessed under subsection (b)(2)(B)(v)(I) during the grade 9 through grade 12 period, with such progress being measured against the results of the assessments described in subsection (b)(2)(G) taken in the previous grade.
- (v)(I) For all public schools in the State, not less than one indicator of school quality or student success that—
 - (aa) allows for meaningful differentiation in school performance;
 - (bb) is valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State); and
 - (cc) may include one or more of the measures described in subclause (II).

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

- (III)⁶ student engagement;
- (IV)⁶ educator engagement;
- (V)⁶ student access to and completion of advanced coursework;
- (VI)⁶ postsecondary readiness;
- (VII)⁶ school climate and safety; and
- (VIII)⁶ any other indicator the State chooses that meets the requirements of this clause.

(C) Annual meaningful differentiation

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

- (i) be based on all indicators in the State’s accountability system under subparagraph (B), for all students and for each of⁷ subgroup of students, consistent with the requirements of such subparagraph;
- (ii) with respect to the indicators described in clauses (i) through (iv) of subparagraph (B) afford—
 - (I) substantial weight to each such indicator; and
 - (II) in the aggregate, much greater weight than is afforded to the indicator or indicators utilized by the State and described in subparagraph (B)(v), in the aggregate; and
- (iii) include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators under subparagraph (B) and the system established under this subparagraph.

(D) Identification of schools

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

- (i) beginning with school year 2017–2018, and at least once every three school years

thereafter, one statewide category of schools for comprehensive support and improvement, as described in subsection (d)(1), which shall include—

- (I) not less than the lowest-performing 5 percent of all schools receiving funds under this part in the State;
- (II) all public high schools in the State failing to graduate one third or more of their students; and
- (III) public schools in the State described under subsection (d)(3)(A)(i)(II); and
- (ii) at the discretion of the State, additional statewide categories of schools.

(E) Annual measurement of achievement

- (i) Annually measure the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools on the assessments described under subsection (b)(2)(v)(I).
- (ii) For the purpose of measuring, calculating, and reporting on the indicator described in subparagraph (B)(i), include in the denominator the greater of—
 - (I) 95 percent of all such students, or 95 percent of all such students in the subgroup, as the case may be; or
 - (II) the number of students participating in the assessments.
- (iii) Provide a clear and understandable explanation of how the State will factor the requirement of clause (i) of this subparagraph into the statewide accountability system.

(F) Partial attendance

- (i) In the case of a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)—
 - (I) may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year; and
 - (II) shall be used for the purpose of reporting on the State and local educational agency report cards under subsection (h) for such school year.
- (ii) In the case of a high school student who has not attended the same school within a local educational agency for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such school year, the local educational agency shall, in order to calculate the graduation rate pursuant to subparagraph (B)(iii), assign such student to the high school—
 - (I) at which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or
 - (II) in which the student was most recently enrolled.

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

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

(5) Accountability for charter schools

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

(d) School support and improvement activities**(1) Comprehensive support and improvement****(A) In general**

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

(B) Local educational agency action

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

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

(ii) includes evidence-based interventions;

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

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

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

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

(C) State educational agency discretion

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

(i) permit differentiated improvement activities that utilize evidence-based interventions in the case of such a school that predominantly serves students—

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

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

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

(D) Public school choice**(i) In general**

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

(ii) Priority

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest-achieving children from low-income families, as determined by the local educational agency for the purposes of allocating funds to schools under section 6313(a)(3) of this title.

(iii) Treatment

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

(iv) Special rule

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

(v) Funding for transportation

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

(2) Targeted support and improvement**(A) In general**

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

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

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

(B) Targeted support and improvement plan

Each school receiving a notification described in this paragraph, in partnership with stakeholders (including principals and other school leaders, teachers and parents), shall develop and implement a school-level targeted support and improvement plan to improve student outcomes based on the indi-

cators in the statewide accountability system established under subsection (c)(4), for each subgroup of students that was the subject of notification that—

- (i) is informed by all indicators described in subsection (c)(4)(B), including student performance against long-term goals;
- (ii) includes evidence-based interventions;
- (iii) is approved by the local educational agency prior to implementation of such plan;
- (iv) is monitored, upon submission and implementation, by the local educational agency; and
- (v) results in additional action following unsuccessful implementation of such plan after a number of years determined by the local educational agency.

(C) Additional targeted support

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

(D) Special rule

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

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

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

- (A) shall—
 - (I) establish statewide exit criteria for—
 - (I) schools identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i), which, if not satisfied within a State-determined number of years (not to exceed four years), shall result in more rigorous State-determined action, such as the implementation of interventions (which may include addressing school-level operations); and
 - (II) schools described in paragraph (2)(C), which, if not satisfied within a State-determined number of years, shall, in the case of such schools receiving assistance under this part, result in identi-

fication of the school by the State for comprehensive support and improvement under subsection (c)(4)(D)(i)(III);

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

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

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

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

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

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

- (B) may—

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

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

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

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

(4) Rule of construction for collective bargaining

Nothing in this subsection shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school or local educational agency employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employers and their employees.

(e) Prohibition

(1) In general

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

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

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

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

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

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

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

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

(iii) prescribe—

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

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

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

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

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

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

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

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

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

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

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

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

(XI) the way in which the State factors the requirement under subsection

(c)(4)(E)(i) into the statewide accountability system under this section; or

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

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

(ii) purports to be legally binding; or

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

(2) Defining terms

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

(f) Existing State law

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

(g) Other plan provisions

(1) Descriptions

Each State plan shall describe—

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

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

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

(i) incidences of bullying and harassment;

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

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

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

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

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

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

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

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

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

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

(2) Assurances

Each State plan shall contain assurances that—

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

(B) the State educational agency will notify local educational agencies, Indian tribes

and tribal organizations, schools, teachers, parents, and the public of the challenging State academic standards, academic assessments, and State accountability system, developed under this section;

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

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

(E) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources to improve educational opportunities and reduce unnecessary fiscal and accounting requirements;

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

(G) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

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

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

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

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

(L) the State educational agency has involved the committee of practitioners established under section 6573(b) of this title in developing the plan and monitoring its implementation;

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

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

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

(ii) shall be presented in a manner that—

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

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

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

(3) Rules of construction

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

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

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

(4) Technical assistance

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

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

(B) in the case of a State educational agency choosing, at its sole discretion, to disaggregate data described in clauses (ii) and (iii)(II) of subsection (h)(1)(C) for Asian and Native Hawaiian or Pacific Islander students using the same race response categories as the decennial census of the population, assist such State educational agency in such disaggregation and in using such data to improve academic outcomes for such students.

(h) Reports

(1) Annual State report card

(A) In general

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

(B) Implementation

The State report card required under this paragraph shall be—

(i) concise;

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

(iii) widely accessible to the public, which shall include making available on a single webpage of the State educational agency’s website, the State report card, all local educational agency report cards for each local educational agency in the State required under paragraph (2), and the annual report to the Secretary under paragraph (5).

(C) Minimum requirements

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

(i) A clear and concise description of the State’s accountability system under subsection (c), including—

(I) the minimum number of students that the State determines are necessary to be included in each of the subgroups of students, as defined in subsection (c)(2), for use in the accountability system;

(II) the long-term goals and measurements of interim progress for all students and for each of the subgroups of students, as defined in subsection (c)(2);

(III) the indicators described in subsection (c)(4)(B) used to meaningfully differentiate all public schools in the State;

(IV) the State’s system for meaningfully differentiating all public schools in the State, including—

(aa) the specific weight of the indicators described in subsection (c)(4)(B) in such differentiation;

(bb) the methodology by which the State differentiates all such schools;

(cc) the methodology by which the State differentiates a school as consistently underperforming for any subgroup of students described in section (c)(4)(C)(iii), including the time period used by the State to determine consistent underperformance; and

(dd) the methodology by which the State identifies a school for comprehensive support and improvement as required under subsection (c)(4)(D)(i);

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

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

(ii) For all students and disaggregated by each subgroup of students described in sub-

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

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

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

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

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

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

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

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

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

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

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

(aa) preschool programs; and

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

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

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

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

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

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

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

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

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

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

(II) if data are available and to the extent practicable, in programs of private postsecondary education in the State or programs of postsecondary education outside the State.

(xiv) Any additional information that the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and secondary schools, which may include the number and percentage of students meeting State determined levels of performance for core indicators, as defined by section 113(b)(3)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2323(b)(3)(A)), and reported by States only in a manner consistent with section 113(b)(3)(C) of such Act (20 U.S.C. 2323(b)(3)(C)).

(D) Rules of construction

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

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

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

(2) Annual local educational agency report cards

(A) Preparation and dissemination

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

(B) Implementation

Each local educational agency report card shall be—

(i) concise;

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

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

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

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

(C) Minimum requirements

The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C), disaggregated in the same manner as required under such paragraph, except for clause (xii) of such paragraph, as applied to the local educational agency and each school served by the local educational agency, including—

(i) in the case of a local educational agency, information that shows how students served by the local educational agency achieved on the academic assessments described in subsection (b)(2) compared to students in the State as a whole;

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

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

(D) Additional information

In the case of a local educational agency that issues a report card for all students, the

local educational agency may include the information under this section as part of such report.

(3) Preexisting report cards

A State educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to December 10, 2015, for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection, and protects the privacy of individual students.

(4) Cost reduction

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

(5) Annual State report to the Secretary

Each State educational agency receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

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

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

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

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

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

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

(i) Inexperienced teachers.

(ii) Teachers teaching with emergency or provisional credentials.

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

(6) Report to Congress

The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (5). Such report shall be submitted through electronic means only.

(i) Privacy

(1) In general

Information collected or disseminated under this section (including any information collected for or included in the reports described in subsection (h)) shall be collected and dis-

seminated in a manner that protects the privacy of individuals consistent with section 1232g of this title (commonly known as the “Family Educational Rights and Privacy Act of 1974”) and this chapter.

(2) Sufficiency

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

(3) Disaggregation

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

(j) Voluntary partnerships

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

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

(2) participation in such partnerships.

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

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

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

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

(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of this section.

(l) Construction

Nothing in this part shall be construed to prescribe the use of the academic assessments de-

scribed in this part for student promotion or graduation purposes.

(Pub. L. 89–10, title I, §1111, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1444; amended Pub. L. 107–279, title IV, §404(d)(1), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title III, §305(g)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 109–270, §2(f)(1), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title I, §1005, Dec. 10, 2015, 129 Stat. 1820; Pub. L. 115–224, title III, §302(1), July 31, 2018, 132 Stat. 1623; Pub. L. 116–92, div. A, title V, §579, Dec. 20, 2019, 133 Stat. 1407.)

Editorial Notes

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1)(B) and (b)(1)(E)(i)(II), (2)(B)(vii)(II), (D)(i)(III), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

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

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(1)(B), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

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

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

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

The Education Sciences Reform Act of 2002, referred to in subsec. (a)(1)(B), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Educational Technical Assistance Act of 2002, referred to in subsec. (a)(1)(B), is title II of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1975, which is classified generally to subchapter II (§9601 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The National Assessment of Educational Progress Authorization Act, referred to in subsec. (a)(1)(B), is title III of Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1982, which is classified generally to subchapter III (§9621 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1)(B), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

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

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

The Social Security Act, referred to in subsec. (g)(1)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts B and E of title IV of the Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6311, Pub. L. 89-10, title I, §1111, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3523; amended Pub. L. 104-134, title I, §101(d) [title VII, §703(b)(1)], Apr. 26, 1996, 110 Stat. 1321-211, 1321-254; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1603], Dec. 21, 2000, 114 Stat. 2763, 2763A-328, related to State plans, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1111 of Pub. L. 89-10 was classified to section 2768 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

AMENDMENTS

2019—Subsec. (h)(1)(C)(ii). Pub. L. 116-92 struck out “on active duty (as defined in section 101(d)(5) of such title)” after “section 101(a)(4) of title 10”.

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

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

2006—Subsec. (a)(1). Pub. L. 109-270 substituted “Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Technical Education Act of 1998”.

2004—Subsec. (b)(2)(I)(ii). Pub. L. 108-446 substituted “section 612(a)(16)(A)” for “section 612(a)(17)(A)”.

2002—Subsec. (c)(2). Pub. L. 107-279 substituted “section 9622(b)(2) of this title” for “section 9010(b)(2) of this title”.

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

§ 6312. Local educational agency plans

(a) Plans required

(1) Subgrants

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

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

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

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 7845 of this title.

(3) State approval

(A) In general

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

(B) Approval

The State educational agency shall approve a local educational agency’s plan only if the State educational agency determines that the local educational agency’s plan—

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