

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2015 AMENDMENT

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

**§ 6338. Special allocation procedures****(a) Allocations for neglected children****(1) In general**

If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in section 6333(c)(1)(B) of this title, the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 6333, 6334, 6335, and 6337 of this title that is attributable to such children.

**(2) Special rule**

If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

**(b) Allocations among local educational agencies**

The State educational agency may allocate the amounts of grants under sections 6333, 6334, 6335, and 6337 of this title among the affected local educational agencies—

- (1) if two or more local educational agencies serve, in whole or in part, the same geographical area;
- (2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or
- (3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

**(c) Reallocation**

If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 6333, 6334, 6335, and 6337 of this title is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

(Pub. L. 89-10, title I, §1126, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1534.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 6338, Pub. L. 89-10, title I, §1127, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3577, related to carryover and waiver, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1126 of Pub. L. 89-10 was classified to section 6337 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 6339. Carryover and waiver****(a) Limitation on carryover**

Notwithstanding section 1225(b) of this title or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

**(b) Waiver**

A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

- (1) the agency determines that the request of a local educational agency is reasonable and necessary; or
- (2) supplemental appropriations for this subpart become available.

**(c) Exclusion**

The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than \$50,000 under this subpart for any fiscal year.

(Pub. L. 89-10, title I, §1127, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1534.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 1127 of Pub. L. 89-10 was classified to section 6338 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

## PART B—STATE ASSESSMENT GRANTS

**Editorial Notes**

## CODIFICATION

Part B of title I of the Elementary and Secondary Education Act of 1965, comprising this part, was originally enacted in the general amendment of title I of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, and amended by Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 11; Pub. L. 110-154, Dec. 21, 2007, 121 Stat. 1826; Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Part B is shown herein, however, as having been added by Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879, without reference to those intervening amendments because of the extensive revision of part B by Pub. L. 114-95. See Codification note preceding section 6301 of this title.

**§ 6361. Grants for State assessments and related activities****(a) Grants authorized**

From amounts made available in accordance with section 6363 of this title, the Secretary shall make grants to State educational agencies to enable the States to carry out 1 or more of the following:

- (1) To pay the costs of the development of the State assessments and standards adopted under section 6311(b) of this title, which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State.
- (2) If a State has developed the assessments adopted under section 6311(b) of this title, to administer those assessments or to carry out

other assessment activities described in this part, such as the following:

(A) Ensuring the provision of appropriate accommodations available to English learners and children with disabilities to improve the rates of inclusion in regular assessments of such children, including professional development activities to improve the implementation of such accommodations in instructional practice.

(B) Developing challenging State academic standards and aligned assessments in academic subjects for which standards and assessments are not required under section 6311(b) of this title.

(C) Developing or improving assessments for English learners, including assessments of English language proficiency as required under section 6311(b)(2)(G) of this title and academic assessments in languages other than English to meet the State's obligations under section 6311(b)(2)(F) of this title.

(D) Ensuring the continued validity and reliability of State assessments.

(E) Refining State assessments to ensure their continued alignment with the challenging State academic standards and to improve the alignment of curricula and instructional materials.

(F) Developing or improving balanced assessment systems that include summative, interim, and formative assessments, including supporting local educational agencies in developing or improving such assessments.

(G) At the discretion of the State, refining science assessments required under section 6311(b)(2) of this title in order to integrate engineering design skills and practices into such assessments.

(H) Developing or improving models to measure and assess student progress or student growth on State assessments under section 6311(b)(2) of this title and other assessments not required under section 6311(b)(2) of this title.

(I) Developing or improving assessments for children with disabilities, including alternate assessments aligned to alternate academic achievement standards for students with the most significant cognitive disabilities described in section 6311(b)(2)(D) of this title, and using the principles of universal design for learning.

(J) Allowing for collaboration with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 6311(b)(2) of this title.

(K) Measuring student academic achievement using multiple measures of student academic achievement from multiple sources.

(L) Evaluating student academic achievement through the development of comprehensive academic assessment instruments (such as performance and technology-based academic assessments, computer adaptive assessments, projects, or extended performance task assessments) that empha-

size the mastery of standards and aligned competencies in a competency-based education model.

(M) Designing the report cards and reports under section 6311(h) of this title in an easily accessible, user friendly-manner that cross-tabulates student information by any category the State determines appropriate, as long as such cross-tabulation—

(i) does not reveal personally identifiable information about an individual student; and

(ii) is derived from existing State and local reporting requirements.

#### (b) Rule of construction

Nothing in subsection (a)(2)(M) shall be construed as authorizing, requiring, or allowing any additional reporting requirements, data elements, or information to be reported to the Secretary unless such reporting, data, or information is explicitly authorized under this chapter.

#### (c) Annual report

Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing the State's activities under the grant and the result of such activities.

(Pub. L. 89-10, title I, §1201, as added Pub. L. 114-95, title I, §1201, Dec. 10, 2015, 129 Stat. 1879.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 6361, Pub. L. 89-10, title I, §1201, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1535, stated purpose of former subpart 1 of this part, prior to the general amendment of this part by Pub. L. 114-95.

Another prior section 6361, Pub. L. 89-10, title I, §1201, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1604(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-328, stated purpose of Even Start family literacy program, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1201 of Pub. L. 89-10 was classified to section 2781 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

#### 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.

#### § 6362. State option to conduct assessment system audit

##### (a) In general

From the amount reserved under section 6363(a)(3) of this title for a fiscal year, the Secretary shall make grants to States to enable the States to—

(1) in the case of a grant awarded under this section to a State for the first time—

(A) audit State assessment systems and ensure that local educational agencies audit local assessments under subsection (e)(1);

(B) execute the State plan under subsection (e)(3)(D); and