

(A) the number of neglected or delinquent children and youth described in section 6431 of this title who—

(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

(ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children and youth; or

(II) in community day programs for neglected or delinquent children and youth; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Special rule

The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) Subgrants to State agencies in Puerto Rico

(1) In general

For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than 85 percent.

(3) Limitation

If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

(A) the percentage in paragraph (1)(A) for such fiscal year; or

(B) the percentage used for the preceding fiscal year.

(c) Ratable reductions in case of insufficient appropriations

If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

(Pub. L. 89-10, title I, §1412, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1581; amended Pub. L. 114-95, title I, §1401(2), Dec. 10, 2015, 129 Stat. 1900.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6432, Pub. L. 89-10, title I, §1412, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to allocation of funds, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114-95 added par. (2) and struck out former par. (2) which related to minimum percentage for fiscal year 2002, fiscal year 2003, fiscal year 2004, and fiscal year 2005 and succeeding fiscal years.

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.

§ 6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this subpart for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

(Pub. L. 89-10, title I, §1413, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1582.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6433, Pub. L. 89-10, title I, §1413, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3593, related to State reallocation of funds, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6434. State plan and State agency applications

(a) State plan

(1) In general

Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—

(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

(B) for assisting in the transition of children and youth between correctional facilities and locally operated programs; and

(C) that is integrated with other programs under this chapter or other Acts, as appropriate.

(2) Contents

Each such State plan shall—

(A) describe the program objectives and outcomes established by the State that will be used to assess the effectiveness of the program in improving the academic, career, and technical skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State;

(C) describe how the State will place a priority for such children to attain a regular high school diploma, to the extent feasible;

(D) contain an assurance that the State educational agency will—

(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection; and

(ii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(E) provide assurances that the State educational agency has established—

(i) procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement; and

(ii) opportunities for such students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming.

(3) Duration of the plan

Each such State plan shall—

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

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

(b) Secretarial approval and peer review

(1) Secretarial approval

The Secretary shall approve each State plan that meets the requirements of this subpart.

(2) Peer review

The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

(c) State agency applications

Any State agency that desires to receive funds to carry out a program under this subpart shall submit an application to the State educational agency that—

(1) describes the procedures to be used, consistent with the State plan under section 6311 of this title, to assess the educational needs of the children to be served under this subpart

and, to the extent practicable, provide for such assessment upon entry into a correctional facility;

(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

(4) describes how the program will meet the goals and objectives of the State plan;

(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 6436 of this title are of high quality;

(6) describes how the State agency will use the results of the most recent evaluation under section 7981 of this title to plan and improve the program;

(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 7901 of this title;

(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], career and technical education programs, State and local dropout prevention programs, and special education programs;

(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program in order to facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program;

(10) describes how appropriate professional development will be provided to teachers and other staff;

(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of such children and youth between such facility or institution and locally operated programs;

(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

(B) intends to return to the local school;

(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school and attain a regular high school diploma once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or attain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(17) provides an assurance that certified or licensed teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants;

(19) provides an assurance that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [34 U.S.C. 11101 et seq.] or other comparable programs, if applicable; and

(20) describes how the State agency will, to the extent feasible—

(A) note when a youth has come into contact with both the child welfare and juvenile justice systems; and

(B) deliver services and interventions designed to keep such youth in school that are evidence-based (to the extent a State determines that such evidence is reasonably available).

(Pub. L. 89-10, title I, §1414, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1582; amended Pub. L. 114-95, title I, §1401(3), Dec. 10, 2015, 129 Stat. 1900.)

Editorial Notes

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(8), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 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.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c)(19), is Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, which is classified principally to chapter 111 (§11101 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 and Tables.

PRIOR PROVISIONS

A prior section 6434, Pub. L. 89-10, title I, §1414, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3593; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(18)(B), (f)(13)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-422, 2681-431, related to State plan and State agency applications, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114-95, §1401(3)(A)(i), substituted “between correctional facilities and locally operated programs” for “from correctional facilities to locally operated programs”.

Subsec. (a)(2)(A). Pub. L. 114-95, §1401(3)(A)(ii)(I), substituted “the program objectives and outcomes established by the State” for “the program goals, objectives, and performance measures established by the State” and “career” for “vocational”.

Subsec. (a)(2)(B). Pub. L. 114-95, §1401(3)(A)(ii)(II), struck out “and” after semicolon at end.

Subsec. (a)(2)(C), (D). Pub. L. 114-95, §1401(3)(A)(ii)(III)-(V), added subpar. (C), redesignated former subpar. (C) as (D), and in subpar. (D) in cl. (i) inserted “and” after semicolon at end, redesignated cl. (iii) as (ii), and struck out former cls. (ii) and (iv) which related to assurance that the agency would carry out the evaluation requirements of section 6471 of this title and provide such other information as the Secretary might reasonably require.

Subsec. (a)(2)(E). Pub. L. 114-95, §1401(3)(A)(ii)(VI), added subpar. (E).

Subsec. (c)(1). Pub. L. 114-95, §1401(3)(B)(i), inserted “and, to the extent practicable, provide for such assessment upon entry into a correctional facility” after “to be served under this subpart”.

Subsec. (c)(6). Pub. L. 114-95, §1401(3)(B)(ii), substituted “will use” for “will carry out the evaluation requirements of section 7941 of this title and how”, inserted “under section 7981 of this title” after “most recent evaluation”, and struck out “will be used” before “to plan and improve the program”.

Subsec. (c)(7). Pub. L. 114-95, §1401(3)(B)(iii), made technical amendment to reference in original act which appears in text as reference to section 7901 of this title.

Subsec. (c)(8). Pub. L. 114-95, §1401(3)(B)(iv), substituted “the Workforce Innovation and Opportunity Act” for “Public Law 105-220” and “career” for “vocational”.

Subsec. (c)(9). Pub. L. 114-95, §1401(3)(B)(v), inserted “and after” after “prior to” and “in order to facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program” before semicolon at end.

Subsec. (c)(11). Pub. L. 114-95, §1401(3)(B)(vi), substituted “transition of such children and youth between such facility or institution and locally operated programs” for “transition of children and youth from such facility or institution to locally operated programs”.

Subsec. (c)(16). Pub. L. 114-95, §1401(3)(B)(vii), inserted “and attain a regular high school diploma” after “reenter school” and substituted “or attain a regular high school diploma” for “or achieve a secondary school diploma”.

Subsec. (c)(17). Pub. L. 114-95, §1401(3)(B)(viii), inserted “certified or licensed” before “teachers”.

Subsec. (c)(20). Pub. L. 114-95, §1401(3)(B)(ix)–(xi), added par. (20).

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.

§ 6435. Use of funds

(a) Uses

(1) In general

A State agency shall use funds received under this subpart only for programs and projects that—

- (A) are consistent with the State plan under section 6434(a) of this title; and
- (B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, career and technical education, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include—

- (i) the acquisition of equipment;
- (ii) pay-for-success initiatives; or
- (iii) providing targeted services for youth who have come in contact with both the child welfare system and juvenile justice system;

(B) shall be designed to support educational services that—

- (i) except for institution-wide projects under section 6436 of this title, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the challenging State academic standards;
- (ii) respond to the educational needs of such children and youth, including by supplementing and improving the quality of the educational services provided to such children and youth by the State agency; and
- (iii) afford such children and youth an opportunity to meet challenging State academic standards; and

(C) shall be carried out in a manner consistent with section 6321 of this title and part F (as applied to programs and projects under this part).

(b) Supplement, not supplant

A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 6321 of this title (as applied to this part) without regard to the subject areas in which instruction is given during those hours.

(Pub. L. 89-10, title I, §1415, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1585; amended Pub. L. 114-95, title I, §1401(4), Dec. 10, 2015, 129 Stat. 1902.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6435, Pub. L. 89-10, title I, §1415, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3596, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(1)(B). Pub. L. 114-95, §1401(4)(A)(i), substituted “career and technical education” for “vocational or technical training”.

Subsec. (a)(2)(A). Pub. L. 114-95, §1401(4)(A)(ii)(I), added subpar. (A) and struck out former subpar. (A) which read as follows: “may include the acquisition of equipment;”.

Subsec. (a)(2)(B)(i). Pub. L. 114-95, §1401(4)(A)(ii)(II)(aa), substituted “the challenging State academic standards” for “the State’s challenging academic content standards and student academic achievement standards”.

Subsec. (a)(2)(B)(ii). Pub. L. 114-95, §1401(4)(A)(ii)(II)(bb), substituted “respond to the educational needs of such children and youth, including by supplementing and improving the quality” for “supplement and improve the quality”.

Subsec. (a)(2)(B)(iii). Pub. L. 114-95, §1401(4)(A)(ii)(II)(cc), substituted “challenging State academic standards” for “challenging State academic achievement standards” and inserted “and” after semicolon at end.

Subsec. (a)(2)(C). Pub. L. 114-95, §1401(4)(A)(ii)(III), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title and substituted “part F” for “part I” and period for “; and” at end.

Subsec. (a)(2)(D). Pub. L. 114-95, §1401(4)(A)(ii)(IV), struck out subpar. (D) which read as follows: “may include the costs of meeting the evaluation requirements of section 7941 of this title.”

Subsec. (b). Pub. L. 114-95, §1401(4)(B), made technical amendment to reference in original act which appears in text as reference to section 6321 of this title.

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.

§ 6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children and