

Jan. 8, 2002, 115 Stat. 1913; renumbered title VI, § 6116, and amended Pub. L. 114-95, title VI, §§ 6001(a), (b)(1), (6), 6002(h), Dec. 10, 2015, 129 Stat. 2046, 2047, 2053.)

Editorial Notes

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (g)(1) and (p)(1), is Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143. Title XI of the Act is classified principally to chapter 22 (§ 2001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7426, Pub. L. 89-10, title VII, § 7116, as added Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3723, related to applications for grants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (d)(9). Pub. L. 114-95, § 6001(b)(6), made technical amendment to reference in original act which appears in text as reference to section 7424(c)(4) of this title.

Subsec. (g). Pub. L. 114-95, § 6002(h)(1), in introductory provisions, substituted “December 10, 2015” for “January 8, 2002” and inserted “the Secretary of Health and Human Services,” after “the Secretary of the Interior,” and “and coordination” after “providing for the implementation”.

Subsec. (o)(1). Pub. L. 114-95, § 6002(h)(2)(A), substituted “December 10, 2015” for “January 8, 2002”.

Subsec. (o)(2). Pub. L. 114-95, § 6002(h)(2)(B), substituted “December 10, 2015” for “January 8, 2002” and struck out last sentence which read as follows: “Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.”

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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.

§ 7427. Student eligibility forms

(a) In general

The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b). All individual data collected shall be protected by the local educational agencies and only aggregated data shall be reported to the Secretary.

(b) Forms

The form described in subsection (a) shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 7491 of this title) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child;

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7491 of this title.

(d) Documentation and types of proof

(1) Types of proof

For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(2) No new or duplicative determinations

Once a child is determined to be an Indian eligible to be counted for such grant award, the local educational agency shall maintain a record of such determination and shall not require a new or duplicate determination to be made for such child for a subsequent application for a grant under this subpart.

(3) Previously filed forms

An Indian student eligibility form that was on file as required by this section on the day before December 10, 2015, and that met the requirements of this section, as this section was in effect on the day before December 10, 2015, shall remain valid for such Indian student.

(e) Monitoring and evaluation review**(1) In general****(A) Review**

For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

(B) Exception

A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) False information

Any local educational agency that provides false information in an application for a grant under this subpart shall—

- (A) be ineligible to apply for any other grant under this subpart; and
- (B) be liable to the United States for any funds from the grant that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 7423 of this title.

(f) Tribal grant and contract schools

Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Education, the Secretary shall use only one of the following, as selected by the school:

- (1) A count of the number of students in the schools certified by the Bureau.
- (2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(g) Timing of child counts

For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (f)(1)), the local educational agency shall—

- (1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7424 of this title; and
- (2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

(Pub. L. 89-10, title VI, § 6117, formerly title VII, § 7117, as added Pub. L. 107-110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1916; renumbered title VI, § 6117, and amended Pub. L. 114-95, title VI, §§ 6001(a), (b)(1), (7), 6002(i), Dec. 10, 2015, 129 Stat. 2046, 2047, 2053.)

Editorial Notes

REFERENCES IN TEXT

The Indian Elementary and Secondary School Assistance Act, referred to in subsec. (e)(1)(B), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92-318, title IV, § 411(a), June 23, 1972, 86 Stat. 335, which was classified generally to subchapter III (§ 241aa et seq.) of chapter 13 of this title, prior to repeal by Pub. L. 100-297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414.

PRIOR PROVISIONS

A prior section 7427, Pub. L. 89-10, title VII, § 7117, as added Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to intensified instruction for limited English proficient students, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, § 6002(i)(1), inserted at end “All individual data collected shall be protected by the local educational agencies and only aggregated data shall be reported to the Secretary.”

Subsec. (b)(1)(A)(i). Pub. L. 114-95, § 6001(b)(7)(A), made technical amendment to reference in original act which appears in text as reference to section 7491 of this title.

Subsec. (c). Pub. L. 114-95, § 6001(b)(7)(B), made technical amendment to reference in original act which appears in text as reference to section 7491 of this title.

Subsec. (d). Pub. L. 114-95, § 6002(i)(4), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) of this section shall be construed to require the furnishing of an enrollment number.”

Pub. L. 114-95, § 6002(i)(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to forms and standards of proof.

Subsec. (e). Pub. L. 114-95, § 6002(i)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 114-95, § 6002(i)(5), which directed substitution of “Bureau of Indian Education” for “Bureau of Indian Affairs” in subsec. (f) as redesignated by section 6002(i)(4) of Pub. L. 114-95, was executed by making the substitution in introductory provisions of subsec. (f) as redesignated by section 6002(i)(3) of Pub. L. 114-95, to reflect the probable intent of Congress.

Pub. L. 114-95, § 6002(i)(3), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(3). Pub. L. 114-95, § 6001(b)(7)(C), made technical amendment to reference in original act which appears in text as reference to section 7423 of this title.

Subsec. (g). Pub. L. 114-95, § 6002(i)(6), which directed substitution of “subsection (f)(1)” for “subsection (g)(1)” in subsec. (g) as redesignated by section 6002(i)(4) of Pub. L. 114-95, was executed by making the substitution in introductory provisions of subsec. (g) as redesignated by section 6002(i)(3) of Pub. L. 114-95, to reflect the probable intent of Congress.

Pub. L. 114-95, § 6002(i)(3), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 114-95, § 6002(i)(3), redesignated subsec. (h) as (g).

Subsec. (h)(1). Pub. L. 114-95, §6001(b)(7)(D), made technical amendment to reference in original act which appears in text as reference to section 7424 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.

§ 7428. Payments

(a) In general

Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7423 of this title. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) Payments taken into account by the State

The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter¹ in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) Reduction of payment for failure to maintain fiscal effort

Each local educational agency shall maintain fiscal effort in accordance with section 7901 of this title or be subject to reduced payments under this subpart in accordance with such section 7901 of this title.

(d) Reallocations

The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

- (1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or
- (2) otherwise become available for reallocation under this subpart.

(Pub. L. 89-10, title VI, §6118, formerly title VII, §7118, as added Pub. L. 107-110, title VII, §701, Jan. 8, 2002, 115 Stat. 1918; renumbered title VI, §6118, and amended Pub. L. 114-95, title VI, §§6001(a), (b)(1), (8), 6002(j), Dec. 10, 2015, 129 Stat. 2046, 2047, 2054.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7428, Pub. L. 89-10, title VII, §7118, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, related to capacity building, prior to the general

¹ So in original. Probably should be “this subpart”.

amendment of former subchapter VII of this chapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, §6001(b)(8), made technical amendment to reference in original act which appears in text as reference to section 7423 of this title.

Subsec. (c). Pub. L. 114-95, §6002(j), added subsec. (c) and struck out former subsec. (c) which related to reduction of payment for failure to maintain fiscal effort with possibility of temporary waiver.

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.

§ 7429. State educational agency review

Before submitting an application to the Secretary under section 7424 of this title, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

(Pub. L. 89-10, title VI, §6119, formerly title VII, §7119, as added Pub. L. 107-110, title VII, §701, Jan. 8, 2002, 115 Stat. 1919; renumbered title VI, §6119, and amended Pub. L. 114-95, title VI, §6001(a), (b)(1), (9), Dec. 10, 2015, 129 Stat. 2046, 2047.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7429, Pub. L. 89-10, title VII, §7119, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, authorized subgrants, prior to the general amendment of former subchapter VII of this chapter by Pub. L. 107-110.

Prior sections 7430 to 7434 were omitted in the general amendment of former subchapter VII of this chapter by Pub. L. 107-110.

Section 7430, Pub. L. 89-10, title VII, §7120, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3727, related to priority on funding of programs for limited English proficient students.

Section 7431, Pub. L. 89-10, title VII, §7121, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to coordination with other programs.

Section 7432, Pub. L. 89-10, title VII, §7122, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to programs for Native Americans and Puerto Rico.

Section 7433, Pub. L. 89-10, title VII, §7123, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to evaluations.

Section 7434, Pub. L. 89-10, title VII, §7124, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3728, related to construction of provisions.

AMENDMENTS

2015—Pub. L. 114-95, §6001(b)(9), made technical amendment to reference in original act which appears in text as reference to section 7424 of this title.