

110–181, div. A, title V, § 573, Jan. 28, 2008, 122 Stat. 120; Pub. L. 110–417, [div. A], title V, § 553, Oct. 14, 2008, 122 Stat. 4469; Pub. L. 112–81, div. A, title V, § 573, Dec. 31, 2011, 125 Stat. 1427; Pub. L. 114–92, div. A, title X, § 1072(h), Nov. 25, 2015, 129 Stat. 995; Pub. L. 114–328, div. A, title V, § 572(a), Dec. 23, 2016, 130 Stat. 2141; Pub. L. 115–91, div. A, title V, § 552(a), Dec. 12, 2017, 131 Stat. 1401.)

Editorial Notes

REFERENCES IN TEXT

Subsection (c), referred to in subsec. (b), was repealed, and former subsec. (d) was redesignated (c), by Pub. L. 114–92, div. A, title X, § 1072(h), Nov. 25, 2015, 129 Stat. 995.

Section 7713 of this title, referred to in subsec. (d)(2), was in the original a reference to section 8013 of Pub. L. 89–10, which was renumbered section 7013 of that Act by Pub. L. 114–95, title VII, § 7001(c)(2), Dec. 10, 2015, 129 Stat. 2074.

CODIFICATION

Section was formerly set out as a note under section 7703b of this title.

Section was enacted as part of the John Warner National Defense Authorization Act for Fiscal Year 2007, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2017—Subsec. (c)(3). Pub. L. 115–91, § 552(a), struck out par. (3) which read as follows: “The authority provided by this subsection expires September 30, 2017.”

2016—Subsec. (c)(3). Pub. L. 114–328 substituted “September 30, 2017” for “September 30, 2016”

2015—Subsecs. (c) to (e). Pub. L. 114–92 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “Not later than March 1, 2008, and annually thereafter to coincide with the submission of the budget of the President for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees an update of the report required by subsection (a).”

2011—Subsec. (d)(2)(B). Pub. L. 112–81, § 573(a), inserted “grant assistance” after “To provide”, substituted “including programs on the following:” for “including—”, added cls. (i) to (vi), and struck out former cls. (i) and (ii) which read as follows:

“(i) distance learning programs; and

“(ii) training programs to improve the ability of military dependent students who attend public schools in the United States and their teachers to meet the educational needs of such students.”

Subsec. (d)(3). Pub. L. 112–81, § 573(b), substituted “September 30, 2016” for “September 30, 2013”.

2008—Subsec. (d). Pub. L. 110–417 amended subsec. (d) generally. Prior to amendment, text read as follows: “During the period beginning on October 17, 2006, and ending on September 30, 2011, the Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transition of military dependent students from attendance in Department of Defense dependent schools to attendance in schools of local educational agencies. The Secretary of Defense may use funds of the Department of Defense Education Activity to share expertise and experience of the Activity with local educational agencies as military dependent students make such transition, including such a transition resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.”

Subsec. (e)(3)(C). Pub. L. 110–181 added subpar. (C).

Statutory Notes and Related Subsidiaries

INFORMATION TO BE INCLUDED WITH FUTURE REQUESTS FOR EXTENSION

Pub. L. 114–328, div. A, title V, § 572(b), Dec. 23, 2016, 130 Stat. 2141, as amended by Pub. L. 115–91, div. A, title V, § 552(b), Dec. 12, 2017, 131 Stat. 1401, provided that: “The budget justification materials that accompany any budget of the President for a fiscal year after fiscal year 2017 (as submitted to Congress pursuant to section 1105 of title 31, United States Code) shall include, with respect to section 574(c) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 20 U.S.C. 7703b note [now 20 U.S.C. 7703c]), the following:

“(1) A full accounting of the expenditure of funds pursuant to such section 574(c) during the last fiscal year ending before the date of the submittal of the budget.

“(2) An assessment of the impact of the expenditure of such funds on the quality of opportunities for elementary and secondary education made available for military dependent students.”

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

For definition of “congressional defense committees” as the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 101 of Title 10, Armed Forces, as made applicable by section 3 of Pub. L. 109–364, which is listed in a table under section 101 of Title 10.

§ 7703d. Assistance to local educational agencies that benefit dependents of members of the Armed Forces with enrollment changes due to base closures, force structure changes, or force relocations

(a) Assistance authorized

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in subsection (b) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(1) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(2) not less than 500 military dependent students in average daily attendance in the schools of the local educational agency.

(b) Eligible local educational agencies

A local educational agency is eligible for assistance under subsection (a) for a fiscal year if—

(1) 20 percent or more of students enrolled in schools of the local educational agency are military dependent students; and

(2) in the case of assistance described in subsection (a)(1), the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(A) The global rebasing plan of the Department of Defense.

(B) The official creation or activation of one or more new military units.

(C) The realignment of forces as a result of the base closure process.

(D) A change in the number of housing units on a military installation.

(E) A signed record of decision.

(c) Calculation of amount of assistance

(1) Pro rata distribution

The amount of the assistance provided under subsection (a) to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(A) the per-student rate determined under paragraph (2) for that fiscal year; by

(B) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under subsection (a).

(2) Per-student rate

For purposes of paragraph (1)(A), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(A) the total amount of funds made available for that fiscal year to provide assistance under subsection (a); by

(B) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under that subsection.

(3) Maximum amount of assistance

A local educational agency may not receive more than \$15,000,000 in assistance under subsection (a) for any fiscal year.

(d) Duration

Assistance may not be provided under subsection (a) after September 30, 2028.

(e) Notification

Not later than June 30, 2023, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under subsection (a) for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance; and

(2) the amount of the assistance for which the local educational agency is eligible.

(f) Disbursement of funds

The Secretary of Defense shall disburse assistance made available under subsection (a) for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (e) for that fiscal year.

(g) Briefing required

Not later than March 1, 2023, the Secretary of Defense shall brief the Committees on Armed Services of the Senate and the House of Representatives on the estimated cost of providing assistance to local educational agencies under subsection (a) through September 30, 2028.

(h) Funding

(1) Increase

Notwithstanding the amounts set forth in the funding tables in division D, the amount

authorized to be appropriated in section 301 for Operation and Maintenance, Defense-wide, Department of Defense Education Activity, Line 390, as specified in the corresponding funding table in section 4301, is hereby increased by \$15,000,000 for purposes of this section.

(2) Offset

Notwithstanding the amounts set forth in the funding tables in division D, the amount authorized to be appropriated in section 301 for Operation and Maintenance, Defense-wide, for Washington Headquarters Services, Line 500, as specified in the corresponding funding table in section 4301, is hereby reduced by \$15,000,000.

(i) Definitions

In this section:

(1) The term “base closure process” means any base closure and realignment process conducted after December 23, 2022, under section 2687 of title 10 or any other similar law enacted after that date.

(2) The term “local educational agency” has the meaning given that term in section 7713(9) of this title.

(3) The term “military dependent students” means—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term “State” means each of the several States and the District of Columbia.

(Pub. L. 117–263, div. A, title V, §575, Dec. 23, 2022, 136 Stat. 2602; Pub. L. 118–31, div. A, title V, §583(a), Dec. 22, 2023, 137 Stat. 280.)

Editorial Notes

REFERENCES IN TEXT

Division D, referred to in subsec. (h), means div. D of Pub. L. 117–263, Dec. 23, 2022, 136 Stat. 3102, which is not classified to the Code.

Section 301, referred to in subsec. (h), means section 301 of Pub. L. 117–263, div. A, title III, Dec. 23, 2022, 136 Stat. 2500, which is not classified to the Code.

Section 4301, referred to in subsec. (h), means section 4301 of Pub. L. 117–263, div. D, title XLIII, Dec. 23, 2022, 136 Stat. 3155, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

AMENDMENTS

2023—Subsec. (a). Pub. L. 118–31, §583(a)(1), struck out dash after “year, the local educational agency” and par. (1) designation before “had (as determined)”, redesignated former subpars. (A) and (B) of par. (1) as pars. (1) and (2), respectively, and realigned margins, and struck out former par. (2) which read as follows: “is projected to have an overall increase, between fiscal years 2023 and 2028, of not less than 500 military dependent students in average daily attendance in the schools of the local educational agency as the result of a signed record of decision.”

Subsecs. (h) to (j). Pub. L. 118-31, § 583(a)(2), (3), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which set out eligible uses for amounts disbursed to a local education agency under subsec. (f).

§ 7704. Policies and procedures relating to children residing on Indian lands

(a) In general

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) Records

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

(c) Waiver

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) Technical assistance and enforcement

The Secretary shall—

(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) Complaints

(1) In general

(A) Any tribe, or its designee, which has students in attendance at a local educational

agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(ii) designate a hearing examiner to conduct the hearing; and

(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) Hearing

The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) Evidence; recommendations; cost

The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) Findings and recommendations

Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) Written determination

Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) Copies provided

Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) Consolidation

In all actions under this subsection, the Secretary shall have discretion to consolidate