

(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

(3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

(4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

(5) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

(6) ensure that migratory children benefit from State and local systemic reforms.

(Pub. L. 89-10, title I, §1301, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6391, Pub. L. 89-10, title I, §1301, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, related to program purpose, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6392. Program authorized

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

(Pub. L. 89-10, title I, §1302, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6392, Pub. L. 89-10, title I, §1302, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, authorized migratory children education program, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6393. State allocations

(a) State allocations

(1) Fiscal year 2002

For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

(A) the sum of the estimated number of migratory children aged 3 through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged 3 through 21 who reside in the State part time, as determined in accordance with subsection (e) of this section; multiplied by

(B) 40 percent of the average per-pupil expenditure in the State, except that the

amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Subsequent years

(A) Base amount

(i) In general

Except as provided in subsection (b) of this section and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State received under this part for fiscal year 2002; plus

(II) the amount allocated to the State under subparagraph (B).

(ii) Nonparticipating States

In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 6394 of this title for the year had been approved; plus

(II) the amount allocated to the State under subparagraph (B).

(B) Allocation of additional amount

For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

(i) the sum of—

(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(b) Allocation to Puerto Rico

(1) In general

For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1)(A) of this section if such subsection applied to 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—

(A) for fiscal year 2002, 77.5 percent;

(B) for fiscal year 2003, 80.0 percent;

(C) for fiscal year 2004, 82.5 percent; and

(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

(3) Limitation

If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part 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 the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

(c) Ratable reductions; reallocations

(1) In general

(A) If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

(2) Special rule

(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 6394 of this title.

(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(d) Consortium arrangements

(1) In general

In the case of a State that receives a grant of \$1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) Proposals

Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) Approval

The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

(e) Determining numbers of eligible children

In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

(Pub. L. 89-10, title I, §1303, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6393, Pub. L. 89-10, title I, §1303, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through—

(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;