

**(c) Availability of funds**

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than \$10,000,000 of the amount appropriated to carry out this part for such year.

**(d) Incentive grants**

From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than \$3,000,000 to award grants of not more than \$250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

**(e) Data collection**

The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

(Pub. L. 89-10, title I, §1308, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1578.)

## REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(A)(iv), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

## PRIOR PROVISIONS

A prior section 6398, Pub. L. 89-10, title I, §1308, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to coordination of migrant education activities, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 6399. Definitions**

As used in this part:

**(1) Local operating agency**

The term “local operating agency” means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State’s migrant education program or projects directly.

**(2) Migratory child**

The term “migratory child” means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(A) has moved from one school district to another;

(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(Pub. L. 89-10, title I, §1309, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1579.)

## PRIOR PROVISIONS

A prior section 6399, Pub. L. 89-10, title I, §1309, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3591, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107-110.

## PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

**§ 6421. Purpose and program authorization****(a) Purpose**

It is the purpose of this part—

(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

**(b) Program authorized**

In order to carry out the purpose of this part and from amounts appropriated under section 6302(d) of this title, the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

(Pub. L. 89-10, title I, §1401, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1580.)

## PRIOR PROVISIONS

A prior section 6421, Pub. L. 89-10, title I, §1401, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3591, set out findings and purpose and authorized program, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1401 of Pub. L. 89-10 was classified to section 2821 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

**§ 6422. Payments for programs under this part****(a) Agency subgrants**

Based on the allocation amount computed under section 6432 of this title, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under subpart 1 of this part.

**(b) Local subgrants**

Each State shall retain, for the purpose of carrying out subpart 2 of this part, funds generated

throughout the State under part A of this subchapter based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(Pub. L. 89-10, title I, §1402, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6422, Pub. L. 89-10, title I, §1402, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to payments for programs, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1402 of Pub. L. 89-10 was classified to section 2822 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

SUBPART 1—STATE AGENCY PROGRAMS

**§ 6431. Eligibility**

A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children and youth—

- (1) in institutions for neglected or delinquent children and youth;
- (2) attending community day programs for neglected or delinquent children and youth; or
- (3) in adult correctional institutions.

(Pub. L. 89-10, title I, §1411, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6431, Pub. L. 89-10, title I, §1411, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3592, related to eligibility, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 6432. Allocation of funds**

**(a) Subgrants to State agencies**

**(1) In general**

Each State agency described in section 6431 of this title (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this subpart, for each fiscal year, in an amount equal to the product of—

- (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) of this section 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—

- (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) 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) of this section 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.)

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.

**§ 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 eli-