

9202(1) of this title, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services. In providing family literacy services under this part, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this part prior to using funds for adult education and literacy activities under this part for activities other than adult education activities.

**(e) Considerations**

In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant outcomes;

(2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 9212 of this title, the success of an eligible provider receiving funding under this part in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;

(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;

(4) whether or not the program—

(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and

(B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;

(5) whether the activities are built on a strong foundation of research and effective educational practice;

(6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;

(7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;

(8) whether the activities are staffed by well-trained instructors, counselors, and administrators;

(9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, post-secondary educational institutions, one-stop centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant out-

comes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

(Pub. L. 105-220, title II, §231, Aug. 7, 1998, 112 Stat. 1070.)

**§ 9242. Local application**

Each eligible provider desiring a grant or contract under this part shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this part will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

(Pub. L. 105-220, title II, §232, Aug. 7, 1998, 112 Stat. 1072.)

**§ 9243. Local administrative cost limits**

**(a) In general**

Subject to subsection (b) of this section, of the amount that is made available under this part to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

**(b) Special rule**

In cases where the cost limits described in subsection (a) of this section are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

(Pub. L. 105-220, title II, §233, Aug. 7, 1998, 112 Stat. 1072.)

SUBPART 4—GENERAL PROVISIONS

**§ 9251. Administrative provisions**

**(a) Supplement not supplant**

Funds made available for adult education and literacy activities under this part shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

**(b) Maintenance of effort**

**(1) In general**

**(A) Determination**

An eligible agency may receive funds under this part for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy

activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

**(B) Proportionate reduction**

Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this part for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

**(2) Computation**

In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

**(3) Decrease in Federal support**

If the amount made available for adult education and literacy activities under this part for a fiscal year is less than the amount made available for adult education and literacy activities under this part for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

**(4) Waiver**

The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

(Pub. L. 105-220, title II, §241, Aug. 7, 1998, 112 Stat. 1072.)

**§ 9252. National Institute for Literacy**

**(a) Purpose**

The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of

the Eunice Kennedy Shriver National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

**(b) Establishment**

**(1) In general**

There is established the National Institute for Literacy (in this section referred to as the “Institute”). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the “Interagency Group”). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

**(2) Offices**

The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

**(3) Recommendations**

The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the “Board”) established under subsection (e) of this section in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board’s recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board’s recommendations, including the reasons for not following the Board’s recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board’s recommendations.

**(4) Daily operations**

The daily operations of the Institute shall be administered by the Director of the Institute.

**(c) Duties**

**(1) In general**

In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience