

duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(e) Special rules

(1) Simultaneous service

Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(2) Comprehensive services

If—

(A) health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers; and

(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(i) the provision of basic medical equipment, such as eyeglasses and hearing aids;

(ii) compensation of a coordinator; and

(iii) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(3) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) of this section in accordance with section 6319 of this title for such fiscal year, and a school may enter into a consortium with another school to carry out such activities.

(Pub. L. 89-10, title I, §1115, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1475.)

PRIOR PROVISIONS

A prior section 6315, Pub. L. 89-10, title I, §1115, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3539, related to targeted assistance schools, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6316. Academic assessment and local educational agency and school improvement

(a) Local review

(1) In general

Each local educational agency receiving funds under this part shall—

(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title;

(B) at the local educational agency's discretion, use any academic assessments or

any other academic indicators described in the local educational agency's plan under section 6312(b)(1)(A) and (B) of this title to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title, except that the local educational agency may not use such indicators (other than as provided for in section 6311(b)(2)(I) of this title) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under this section if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 6311(b)(1) of this title; and

(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

(2) Available results

The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

(b) School improvement

(1) General requirements

(A) Identification

Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(B) Deadline

The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

(C) Application

Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 6311(b)(2)(C)(v) of this title enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.

(D) Targeted assistance schools

To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 6315 of this title should be identified for school

improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

(E) Public school choice

(i) In general

In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) Rule

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title.

(F) Transfer

Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) of this section shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

(2) Opportunity to review and present evidence; time limit

(A) Identification

Before identifying an elementary school or a secondary school for school improvement under paragraphs¹ (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) Final determination

Not later than 30 days after a local educational agency provides the school with the

opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

(3) School plan

(A) Revised plan

After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F of this subchapter;

(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 6313 of this title for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

(II) meets the requirements for professional development activities under section 6319 of this title; and

(III) is provided in a manner that affords increased opportunity for participating in that professional development;

(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 6311(b)(2) of this title, meet the State's proficient level of

¹ So in original. Probably should be "paragraph".

achievement on the State academic assessment described in section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 6321 of this title;

(viii) include strategies to promote effective parental involvement in the school;

(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

(x) incorporate a teacher mentoring program.

(B) Conditional approval

The local educational agency may condition approval of a school plan under this paragraph on—

(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

(ii) feedback on the school improvement plan from parents and community leaders.

(C) Plan implementation

Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

(D) Plan approved during school year

Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

(E) Local educational agency approval

The local educational agency, within 45 days of receiving a school plan, shall—

(i) establish a peer review process to assist with review of the school plan; and

(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

(4) Technical assistance

(A) In general

For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

(B) Specific assistance

Such technical assistance—

(i) shall include assistance in analyzing data from the assessments required under section 6311(b)(3) of this title, and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 6318 of this title, the professional development requirements described in section 6319 of this title, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and

(iv) may be provided—

(I) by the local educational agency, through mechanisms authorized under section 6317 of this title; or

(II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.]), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

(C) Scientifically based research

Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

(5) Failure to make adequate yearly progress after identification

In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 6311(b)(2) of this title, by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school—

(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

(B) shall make supplemental educational services available consistent with subsection (e)(1) of this section; and

(C) shall continue to provide technical assistance.

(6) Notice to parents

A local educational agency shall promptly provide to a parent or parents (in an under-

standable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8)—

(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

(B) the reasons for the identification;

(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) of this section (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e) of this section.

(7) Corrective action

(A) In general

In this subsection, the term “corrective action” means action, consistent with State law, that—

(i) substantially and directly responds to—

(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

(II) any underlying staffing, curriculum, or other problems in the school; and

(ii) is designed to increase substantially the likelihood that each group of students described in² 6311(b)(2)(C) of this title enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 6311(b)(3) of this title.

(B) System

In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

(C) Role of local educational agency

In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 6311(b)(2) of this

title, by the end of the second full school year after the identification under paragraph (1), the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

(iii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iv) identify the school for corrective action and take at least one of the following corrective actions:

(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

(III) Significantly decrease management authority at the school level.

(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

(V) Extend the school year or school day for the school.

(VI) Restructure the internal organizational structure of the school.

(D) Delay

Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(E) Publication and dissemination

The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

(ii) in an understandable and uniform format and, to the extent practicable, pro-

² So in original. Probably should be followed by “section”.

vided in a language that the parents can understand; and

(iii) through such means as the Internet, the media, and public agencies.

(8) Restructuring

(A) Failure to make adequate yearly progress

If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

(B) Alternative governance

Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

(i) Reopening the school as a public charter school.

(ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.

(iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.

(iv) Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.

(v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title. In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

(C) Prompt notice

The local educational agency shall—

(i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and

(ii) provide the teachers and parents with an adequate opportunity to—

(I) comment before taking any action under those subparagraphs; and

(II) participate in developing any plan under subparagraph (A)(iii).

(9) Transportation

In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii) of this section, the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

(10) Funds for transportation and supplemental educational services

(A) In general

Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e) of this section, a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2 of this part, from which the agency shall spend—

(i) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide, or pay for, transportation under paragraph (9);

(ii) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide supplemental educational services under subsection (e) of this section; and

(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 of this part for transportation under paragraph (9), supplemental educational services under subsection (e) of this section, or both, as the agency determines.

(B) Total amount

The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e) of this section.

(C) Insufficient funds

If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

(D) Prohibition

A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 6313(c) of this title to a school described in paragraph (7)(C) or (8)(A) of subsection (b) of this section.

(11) Cooperative agreement

In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) of this section if all public

schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

(12) Duration

If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

(13) Special rule

A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

(14) State educational agency responsibilities

The State educational agency shall—

(A) make technical assistance under section 6317 of this title available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 6317(a)(2) of this title;

(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;

(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

(D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 6311(b)(9) of this title that have significantly affected student academic achievement.

(c) State review and local educational agency improvement

(1) In general

A State shall—

(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 6311(b)(2) of this title toward meeting the State's student academic

achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 6317, 6318, and 6319 of this title; and

(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 6311(b)(2) of this title.

(2) Rewards

In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, the State may make rewards of the kinds described under section 6317 of this title to the agency.

(3) Identification of local educational agency for improvement

A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to January 8, 2002, failed to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(4) Targeted assistance schools

When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

(5) Opportunity to review and present evidence

(A) Review

Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

(6) Notification to parents

The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents

can participate in upgrading the quality of the local educational agency.

(7) Local educational agency revisions

(A) Plan

Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—

(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 of this part for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii) of this section), but excluding funds reserved for professional development under section 6319 of this title;

(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 6311(b)(2)(C)(v) of this title, consistent with adequate yearly progress as defined under section 6311(b)(2) of this title;

(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 6321 of this title; and

(viii) include strategies to promote effective parental involvement in the school.

(B) Implementation

The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

(9)³ State educational agency responsibility

(A) Technical or other assistance

For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 6317 of this title, to better enable the local educational agency to—

(i) develop and implement the local educational agency's plan; and

(ii) work with schools needing improvement.

(B) Methods and strategies

Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 6318 of this title and the professional development activities described in section 6319 of this title.

(10) Corrective action

In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

(A) Definition

As used in this paragraph, the term "corrective action" means action, consistent with State law, that—

(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and

(ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

(B) General requirements

After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);

(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(C) Certain corrective actions required

In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

³ So in original. No par. (8) has been enacted.

(i) Deferring programmatic funds or reducing administrative funds.

(ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.

(iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.

(v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

(vi) Abolishing or restructuring the local educational agency.

(vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F) of this section, and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9) of this section, in conjunction with carrying out not less than one additional action described under this subparagraph.

(D) Hearing

Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

(E) Notice to parents

The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

(F) Delay

Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(11) Special rule

If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

(d) Construction

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(e) Supplemental educational services

(1) Supplemental educational services

In the case of any school described in paragraph (5), (7), or (8) of subsection (b) of this section, the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) Local educational agency responsibilities

Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) Agreement

In the case of the selection of an approved provider by a parent, the local educational

agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 1414(d) of this title;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) State educational agency responsibilities

A State educational agency shall—

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 6311(b)(1) of this title;

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) Criteria for providers

In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local

educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) Amounts for supplemental educational services

The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of—

(A) the amount of the agency's allocation under subpart 2 of this part, divided by the number of children from families below the poverty level counted under section 6333(c)(1)(A) of this title; or

(B) the actual costs of the supplemental educational services received by the child.

(7) Funds provided by State educational agency

Each State educational agency may use funds that the agency reserves under this part, and part A of subchapter V of this chapter, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) Duration

The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) Prohibition

Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

(10) Waiver

(A) Requirement

At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that—

(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

(ii) the local educational agency provides evidence that it is not able to provide those services.

(B) Notification

The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

(11) Special rule

If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

(12) Definitions

In this subsection—

(A) the term “eligible child” means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title;

(B) the term “provider” means a non-profit entity, a for-profit entity, or a local educational agency that—

(i) has a demonstrated record of effectiveness in increasing student academic achievement;

(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 6311 of this title; and

(iii) is financially sound; and

(C) the term “supplemental educational services” means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 6311 of this title and attain proficiency in meeting the State's academic achievement standards.

(f) Schools and LEAs previously identified for improvement or corrective action**(1) Schools****(A) School improvement****(i) Schools in school-improvement status before January 8, 2002**

Any school that was in the first year of school improvement status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

(ii) Schools in school-improvement status for 2 or more years before January 8, 2002

Any school that was in school improvement status under this section for two or more consecutive school years preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5) of this section.

(B) Corrective action

Any school that was in corrective action status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

(2) LEAs**(A) LEA improvement**

A State shall identify for improvement under subsection (c)(3) of this section any local educational agency that was in improvement status under this section as this section was in effect on the day preceding January 8, 2002.

(B) Corrective action

A State shall identify for corrective action under subsection (c)(10) of this section any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding January 8, 2002.

(C) Special rule

For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) of this section are provided not later than the first day of the 2002-2003 school year.

(D) Transition

With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, such determination shall include in such 2-year period any continuous period of time immediately preceding January 8, 2002, during which the agency has failed to make such progress.

(g) Schools funded by the Bureau of Indian Affairs**(1) Adequate yearly progress for Bureau funded schools****(A) Development of definition****(i) Definition**

The Secretary of the Interior, in consultation with the Secretary if the Secretary of⁴ Interior requests the consultation, using the process set out in section 2018(b) of title 25, shall define adequate

⁴So in original. Probably should be “of the”.

yearly progress, consistent with section 6311(b) of this title, for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(ii) Use of definition

The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 6311(b) of this title, or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

(B) Waiver

The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of⁴ Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 6311(b) of this title, that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of⁴ Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 6311(b) of this title, taking into account the unique circumstances and needs of such school or schools and the students served.

(C) Technical assistance

The Secretary of⁴ Interior shall, in consultation with the Secretary if the Secretary of⁴ Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

(2) Accountability for BIA schools

For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b) of this section, as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c) of this section, or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e) of this section.

(3) School improvement for Bureau schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3) of this section, and subsection (b)(5) of this section, other than subsection (b)(1)(E) of this section. The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) of this section relating to technical assistance.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5) of this section, other than subsection (b)(1)(E) of this section.

(4) Corrective action and restructuring for Bureau-funded schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by such school board under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by the Bureau under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(5) Annual report

On an annual basis, the Secretary of the Interior shall report to the Secretary of Edu-

cation and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

(A) the identity of each school;

(B) a statement from each affected school board regarding the factors that lead to such identification; and

(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of⁴ Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

(h) Other agencies

After receiving the notice described in subsection (b)(14)(D) of this section, the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

(Pub. L. 89-10, title I, § 1116, as added Pub. L. 107-110, title I, § 101, Jan. 8, 2002, 115 Stat. 1478.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(4)(B)(iv)(II), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

This section on the day preceding January 8, 2002 (as this section was in effect on such day), referred to in subsec. (f), means section 1116 of Pub. L. 89-10, as added by Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, as amended, which was classified to section 6317 of this title prior to the general amendment of this subchapter by Pub. L. 107-110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439.

The Indian Self-Determination Act, referred to in subsec. (g)(3)(A), (4)(A), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (g)(3)(A), (4)(A), is part B (§§5201-5212) of title V of Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 6316, Pub. L. 89-10, title I, § 1115A, as added Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, related to school choice, prior to the general amendment of this subchapter by Pub. L. 107-110.

A prior section 1116 of Pub. L. 89-10 was classified to section 6317 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

§ 6317. School support and recognition

(a) System for support

(1) In general

Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies

and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

(2) Priorities

In carrying out this subsection, a State shall—

(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 6316 of this title and assist those schools, in accordance with section 6316(b)(11) of this title, for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 6316(b) of this title;

(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 6316(b) of this title; and

(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

(3) Regional centers

Such a statewide system shall, to the extent practicable, work with and receive support and assistance from regional educational laboratories established under part D of the Education Sciences Reform Act of 2002 [20 U.S.C. 9561 et seq.] and comprehensive centers established under the Educational Technical Assistance Act of 2002 [20 U.S.C. 9601 et seq.] and the comprehensive regional technical assistance centers and the regional educational laboratories under section 6041(h) of this title (as such section existed on the day before November 5, 2002), or other providers of technical assistance.

(4) Statewide system

(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

(i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).

(ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.

(iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.

(iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

(B) PRIORITY.—The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).