

youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient children that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General, and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient children and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students and relevant programs operated by the Department, including programs under this part and other programs under this chapter, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high-quality educational opportunities to all language-minority and limited English proficient children.

**(b) Data**

The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient children.

**(c) Publication of proposals**

The Secretary shall publish and disseminate all requests for proposals for programs funded under this part.

**(d) Report**

The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

- (1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;
- (2) containing a critical synthesis of data reported by States under section 6934 of this title, when applicable;
- (3) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;
- (4) containing the major findings of scientifically based research carried out under this part; and
- (5) containing other information gathered from the reports submitted to the Secretary under this subchapter when applicable.

(Pub. L. 89-10, title III, §3253, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1728.)

PRIOR PROVISIONS

A prior section 7001, Pub. L. 89-10, title III, §3601, as added Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1711],

Dec. 21, 2000, 114 Stat. 2763, 2763A-337, related to limitation on availability of certain funds for schools, prior to the general amendment of this subchapter by Pub. L. 107-110. See section 6777 of this title.

Another prior section 7001 and prior sections 7002 to 7005 were repealed by Pub. L. 104-208, div. A, title I, §101(e) [title VII, §708(e)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312.

Section 7001, Pub. L. 89-10, title III, §3601, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, authorized elementary and secondary school library media resources program.

Section 7002, Pub. L. 89-10, title III, §3602, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, related to allocation of funds to States.

Section 7003, Pub. L. 89-10, title III, §3603, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3671, required State plans meeting certain criteria.

Section 7004, Pub. L. 89-10, title III, §3604, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, related to distribution of allocations to local educational agencies.

Section 7005, Pub. L. 89-10, title III, §3605, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3672, authorized appropriations.

PART C—GENERAL PROVISIONS

§ 7011. Definitions

Except as otherwise provided, in this subchapter:

**(1) Child**

The term “child” means any individual aged 3 through 21.

**(2) Community-based organization**

The term “community-based organization” means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

**(3) Community college**

The term “community college” means an institution of higher education as defined in section 1001 of this title that provides not less than a 2-year program that is acceptable for full credit toward a bachelor’s degree, including institutions receiving assistance under the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

**(4) Director**

The term “Director” means the Director of the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students established under section 3420 of this title.

**(5) Family education program**

The term “family education program” means a language instruction educational program or special alternative instruction program that—

(A) is designed—

- (i) to help limited English proficient adults and out-of-school youths achieve English proficiency; and

(ii) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

(B) when feasible, uses instructional programs based on models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

(C) gives preference to participation by parents and immediate family members of children attending school.

**(6) Immigrant children and youth**

The term “immigrant children and youth” means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

**(7) Indian tribe**

The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**(8) Language instruction educational program**

The term “language instruction educational program” means an instruction course—

(A) in which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards, as required by section 6311(b)(1) of this title; and

(B) that may make instructional use of both English and a child’s native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

**(9) Native American and Native American language**

The terms “Native American” and “Native American language” shall have the meanings given such terms in section 2902 of title 25.

**(10) Native Hawaiian or Native American Pacific Islander native language educational organization**

The term “Native Hawaiian or Native American Pacific Islander native language educational organization” means a nonprofit organization with—

(A) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization’s educational programs; and

(B) not less than 5 years successful experience in providing educational services in traditional Native American languages.

**(11) Native language**

The term “native language”, when used with reference to an individual of limited English proficiency, means—

(A) the language normally used by such individual; or

(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

**(12) Paraprofessional**

The term “paraprofessional” means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

**(13) Specially qualified agency**

The term “specially qualified agency” means an eligible entity, as defined in section 6871 of this title, in a State whose State educational agency—

(A) does not participate in a program under subpart 1 of part A of this subchapter for a fiscal year; or

(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

**(14) State**

The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(15) Tribally sanctioned educational authority**

The term “tribally sanctioned educational authority” means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate a school described in section 6822(a) of this title or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A of this subchapter for individuals served by a school described in section 6822(a) of this title.

(Pub. L. 89-10, title III, §3301, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1729; amended Pub. L. 110-315, title IX, §941(k)(2)(F)(i), Aug. 14, 2008, 122 Stat. 3466.)

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in par. (3), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (7), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

#### PRIOR PROVISIONS

A prior section 3301 of Pub. L. 89-10 was classified to section 6921 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

#### AMENDMENTS

2008—Par. (3). Pub. L. 110-315 substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

### § 7012. Parental notification

#### (a) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of—

(1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

(2) the child’s level of English proficiency, how such level was assessed, and the status of the child’s academic achievement;

(3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;

(4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;

(5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;

(6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this subchapter are used for children in secondary schools;

(7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

(8) information pertaining to parental rights that includes written guidance—

(A) detailing—

(i) the right that parents have to have their child immediately removed from such program upon their request; and

(ii) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(B) assisting parents in selecting among various programs and methods of instruc-

tion, if more than one program or method is offered by the eligible entity.

#### (b) Separate notification

In addition to providing the information required to be provided under subsection (a) of this section, each eligible entity that is using funds provided under this subchapter to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 6842 of this title for any fiscal year for which part A of this subchapter is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

#### (c) Receipt of information

The information required to be provided under subsections (a) and (b) of this section to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

#### (d) Special rule applicable during school year

For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) of this section with respect to the parents of the child within 2 weeks of the child being placed in such a program.

#### (e) Parental participation

##### (1) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall implement an effective means of outreach to parents of limited English proficient children to inform such parents of how they can—

(A) be involved in the education of their children; and

(B) be active participants in assisting their children—

(i) to learn English;

(ii) to achieve at high levels in core academic subjects; and

(iii) to meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

##### (2) Receipt of recommendations

The outreach described in paragraph (1) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents described in such paragraph.

#### (f) Basis for admission or exclusion

A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(Pub. L. 89-10, title III, §3302, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1732.)