

## SUBPART 4—GENERAL PROVISIONS

**§ 7217. Maintenance of effort****(a) In general**

Except as provided in subsection (b) of this section, a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State, with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

**(b) Reduction of funds**

The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) of this section by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

**(c) Waiver**

The Secretary may waive, for 1 fiscal year only, the requirements of this section, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

(Pub. L. 89-10, title V, §5141, as added Pub. L. 107-110, title V, §501, Jan. 8, 2002, 115 Stat. 1784.)

## PRIOR PROVISIONS

A prior section 5141 of Pub. L. 89-10 was classified to section 3221 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

**§ 7217a. Participation of children enrolled in private schools****(a) Participation on equitable basis****(1) In general**

To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials—

(A) shall provide, as may be necessary, for the benefit of such children in such schools—

(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of

such children (and other educational personnel serving such children) in training programs; and

(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c) of this section); or

(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

**(2) Other provisions for services**

If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

**(3) Application of requirements**

The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

**(b) Equal expenditures****(1) In general**

Expenditures for programs under subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

**(2) Concentrated programs**

Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

**(c) Administrative requirements****(1) Funds and property**

The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.