

dren before using funds under this part for schoolwide programs under section 6314 of this title.

(Pub. L. 89-10, title I, §1306, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1576.)

REFERENCES TO PARTS A AND B OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PARTS B AND A OF SUBCHAPTER III

References to parts A and B of subchapter III of this chapter are considered to be references to parts B and A, respectively, of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

#### PRIOR PROVISIONS

A prior section 6396, Pub. L. 89-10, title I, §1306, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3589, related to comprehensive needs assessments and service-delivery plans, prior to the general amendment of this subchapter by Pub. L. 107-110.

### § 6397. Bypass

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

- (1) the State is unable or unwilling to conduct educational programs for migratory children;
- (2) such arrangements would result in more efficient and economic administration of such programs; or
- (3) such arrangements would add substantially to the welfare or educational attainment of such children.

(Pub. L. 89-10, title I, §1307, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1578.)

#### PRIOR PROVISIONS

A prior section 6397, Pub. L. 89-10, title I, §1307, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to bypass of State, prior to the general amendment of this subchapter by Pub. L. 107-110.

### § 6398. Coordination of migrant education activities

#### (a) Improvement of coordination

##### (1) In general

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

##### (2) Duration

Grants under this subsection may be awarded for not more than 5 years.

#### (b) Student records

##### (1) Assistance

The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.

### (2) Information system

#### (A) In general

The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, January 8, 2002, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—

- (i) immunization records and other health information;
- (ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 6311(b) of this title;
- (iii) other academic information essential to ensuring that migratory children achieve to high standards; and
- (iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

#### (B) Notice and comment

After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information. Such publication shall occur not later than 120 days after January 8, 2002.

### (3) No cost for certain transfers

A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

### (4) Report to Congress

#### (A) In general

Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

#### (B) Required contents

The Secretary shall include in such report—

- (i) a review of the progress of States in developing and linking electronic records transfer systems;