

(6) Harmful to minors

The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(7) Obscene

The term “obscene” has the meaning applicable to that term under section 1460 of title 18.

(8) Sexual act and sexual contact

The terms “sexual act” and “sexual contact” have the meanings given those terms in section 2246 of title 18.

(f) Severability

If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.

(Pub. L. 89–10, title II, §2441, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1686.)

SUBCHAPTER III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

CODIFICATION

Title III of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title III is shown, herein, as having been added by Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689, without reference to earlier amendments because of the extensive revision of the title’s provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

§ 6801. Authorizations of appropriations; condition on effectiveness of parts

(a) Authorizations of appropriations**(1) In general**

Subject to subsection (b) of this section, there are authorized to be appropriated to carry out this subchapter, except for subpart 4 of part B, \$750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) Emergency immigrant education program

There are authorized to be appropriated to carry out subpart 4 of part B of this subchapter (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(b) Conditions on effectiveness of parts A and B**(1) Part A**

Part A of this subchapter shall be in effect for any fiscal year for which the amount ap-

propriated under paragraphs (1) and (2) of subsection (a) of this section equals or exceeds \$650,000,000.

(2) Part B

Part B of this subchapter shall be in effect only for a fiscal year for which part A of this subchapter is not in effect.

(c) References

In any fiscal year for which part A of this subchapter is in effect, references in Federal law (other than this subchapter) to part B of this subchapter shall be considered to be references to part A of this subchapter. In any fiscal year for which part B of this subchapter is in effect, references in Federal law (other than this subchapter) to part A of this subchapter shall be considered to be references to part B of this subchapter.

(Pub. L. 89–10, title III, §3001, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1689.)

PRIOR PROVISIONS

A prior section 6801, Pub. L. 89–10, title III, §3101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3636, set out Short Title of prior subchapter III as the Technology for Education Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3001 of Pub. L. 89–10 was classified to section 3021 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

§ 6811. Short title

This part may be cited as the “English Language Acquisition, Language Enhancement, and Academic Achievement Act”.

(Pub. L. 89–10, title III, §3101, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6811, Pub. L. 89–10, title III, §3111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3637, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3101 of Pub. L. 89–10 was classified to section 6801 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6812. Purposes

The purposes of this part are—

(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 6311(b)(1) of this title;

(3) to develop high-quality language instruction educational programs designed to assist

State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring—

(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 6311(b)(2)(B) of this title; and

(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

(Pub. L. 89-10, title III, §3102, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6812, Pub. L. 89-10, title III, §3112, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3638, set forth purpose of former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107-110.

Prior sections 6813 to 6815 were omitted in the general amendment of this subchapter by Pub. L. 107-110.

Section 6813, Pub. L. 89-10, title III, §3113, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3639; amended Pub. L. 104-208, div. A, title I, §101(e) [title VII, §709(a)(1), (3)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312; Pub. L. 105-220, title II, §251(b)(2)(D), Aug. 7, 1998, 112 Stat. 1080, defined terms for purposes of prior subchapter III.

Section 6814, Pub. L. 89-10, title III, §3114, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3640, authorized appropriations and set forth funding rule.

Section 6815, Pub. L. 89-10, title III, §3115, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3641,

limited use of funds for administrative costs and technical assistance.

SUBPART 1—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

§ 6821. Formula grants to States

(a) In general

In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 6823 of this title, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b) of this section. The grant shall consist of the allotment determined for the State educational agency under subsection (c) of this section.

(b) Use of funds

(1) Subgrants to eligible entities

The Secretary may make a grant under subsection (a) of this section only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) of this section for a fiscal year—

(A) to award subgrants, from allocations under section 6824 of this title, to eligible entities to carry out the activities described in section 6825 of this title (other than subsection (e)); and

(B) to award subgrants under section 6824(d)(1) of this title to eligible entities that are described in that section to carry out the activities described in section 6825(e) of this title.

(2) State activities

Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) of this section may reserve not more than 5 percent of the agency's allotment under subsection (c) of this section to carry out one or more of the following activities:

(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(iii) identifying or developing, and implementing, measures of English proficiency; and

(iv) promoting parental and community participation in programs that serve limited English proficient children.