

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.

(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 6842 of this title.

**(3) Administrative expenses**

From the amount reserved under paragraph (2), a State educational agency may use not more than 60 percent of such amount or \$175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

**(c) Reservations and allotments**

**(1) Reservations**

From the amount appropriated under section 6801(a) of this title for each fiscal year, the Secretary shall reserve—

(A) 0.5 percent or \$5,000,000 of such amount, whichever is greater, for payments to eligible entities that are defined under section 6822(a) of this title for activities, approved by the Secretary, consistent with this subpart;

(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart;

(C) 6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than \$2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title; and

(D) such sums as may be necessary to make continuation awards under paragraph (2).

**(2) Continuation awards**

**(A) In general**

Before making allotments to State educational agencies under paragraph (3) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(D) to make continuation awards to recipients who received grants or fellowships for the fiscal year preceding any fiscal year described in section 6801(b)(1)(A) of this title under—

(i) subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002); or

(ii) subparts 1 and 3 of part B of this subchapter.

**(B) Use of funds**

The Secretary shall make the awards in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

**(3) State allotments**

**(A) In general**

Except as provided in subparagraph (B), from the amount appropriated under section

6801(a) of this title for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 6823(c) of this title—

(i) an amount that bears the same relationship to 80 percent of the remainder as the number of limited English proficient children in the State bears to the number of such children in all States; and

(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

**(B) Minimum allotments**

No State educational agency shall receive an allotment under this paragraph that is less than \$500,000.

**(C) Reallocation**

If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or 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 this subpart, the Secretary—

(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 6825 of this title (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

(ii) shall reallocate any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

**(D) Special rule for Puerto Rico**

The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

**(4) Use of data for determinations**

**(A) In general**

In making State allotments under paragraph (3), for the purpose of determining the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such children and youth.

**(B) Special rule**

**(i) First 2 years**

In making determinations under subparagraph (A) for the 2 fiscal years following January 8, 2002, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant chil-

dren and youth in a State and in all States, using data available from the Bureau of Census or submitted by the States to the Secretary.

**(ii) Subsequent years**

For subsequent fiscal years, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using the more accurate of—

(I) the data available from the American Community Survey available from the Department of Commerce; or

(II) the number of children being assessed for English proficiency in a State as required under section 6311(b)(7) of this title.

(Pub. L. 89–10, title III, §3111, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1691.)

REFERENCES IN TEXT

Subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002), referred to in subsec. (c)(2)(A)(i), means subparts 1 and 3 of part A of title VII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3719, 3732, which were classified generally to subparts 1 (§7421 et seq.) and 3 (§7471 et seq.) of part A of subchapter VII of this chapter prior to the general amendment of subchapter VII of this chapter by Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907.

PRIOR PROVISIONS

A prior section 3111 of Pub. L. 89–10 was classified to section 6811 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

**§ 6822. Native American and Alaska Native children in school**

**(a) Eligible entities**

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

- (1) An Indian tribe.
- (2) A tribally sanctioned educational authority.
- (3) A Native Hawaiian or Native American Pacific Islander native language educational organization.
- (4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.
- (5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.
- (6) An elementary school or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

**(b) Submission of applications for assistance**

Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a) of this section, and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

**(c) Special rule**

An eligible entity described in subsection (a) of this section that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 6824 of this title.

(Pub. L. 89–10, title III, §3112, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1694.)

PRIOR PROVISIONS

A prior section 3112 of Pub. L. 89–10 was classified to section 6812 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

**§ 6823. State and specially qualified agency plans**

**(a) Plan required**

Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

**(b) Contents**

Each plan submitted under subsection (a) of this section shall—

- (1) describe the process that the agency will use in making subgrants to eligible entities under section 6824(d)(1) of this title;
- (2) describe how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the four recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 6311(b)(1) of this title;
- (3) contain an assurance that—
  - (A) in the case of a State educational agency, the agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;
  - (B) in the case of a specially qualified agency, the agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;
  - (C) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 6311(b)(7) of this title to annually assess in English children who have been in the United States for 3 or more consecutive years;
  - (D) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency