

in the State receives funds under this subpart, and on the basis of the results of the assessments described in subsection (d) of this section—

(A) in the case of a local educational agency, determine whether the local educational agency made adequate yearly progress, as described in section 6311(b)(2) of this title; and

(B) in the case of a specially qualified agency, submit to the Secretary information that would allow the Secretary to determine whether the specially qualified agency has made adequate yearly progress, as described in section 6311(b)(2) of this title;

(2) permit only those local educational agencies or specially qualified agencies that made adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive grants under this subpart; and

(3) permit those local educational agencies or specially qualified agencies that failed to make adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive such grants only if the State educational agency disbursed such grants to the local educational agencies or specially qualified agencies to carry out the requirements of section 6316 of this title.

(Pub. L. 89–10, title VI, § 6224, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1896.)

PRIOR PROVISIONS

Prior sections 7352 and 7353 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7352, Pub. L. 89–10, title VI, § 6302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to administrative authority. See section 7215a of this title.

Section 7353, Pub. L. 89–10, title VI, § 6303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to local applications for allocations of funds. See section 7215b of this title.

SUBPART 3—GENERAL PROVISIONS

§ 7355. Annual average daily attendance determination

(a) Census determination

Each local educational agency desiring a grant under section 7345a of this title and each local educational agency or specially qualified agency desiring a grant under subpart 2 of this part shall—

(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart (2)).¹

(b) Penalty

If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information

under subsection (a) of this section for the purpose of gaining additional funds under section 7345a of this title or subpart 2 of this part, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 7345a of this title or subpart 2 of this part if the agency had submitted accurate information under subsection (a) of this section.

(Pub. L. 89–10, title VI, § 6231, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355a. Supplement, not supplant

Funds made available under subpart 1 or subpart 2 of this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title VI, § 6232, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355b. Rule of construction

Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this part.

(Pub. L. 89–10, title VI, § 6233, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355c. Authorization of appropriations

There are authorized to be appropriated to carry out this part \$300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, to be distributed equally between subparts 1 and 2 of this part.

(Pub. L. 89–10, title VI, § 6234, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

PART C—GENERAL PROVISIONS

§ 7371. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this chapter.

(Pub. L. 89–10, title VI, § 6301, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

PRIOR PROVISIONS

A prior section 7371, Pub. L. 89–10, title VI, § 6401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3712, related to maintenance of effort and supplementary nature of Federal funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217 of this title.

A prior section 6301 of Pub. L. 89–10 was classified to section 7351 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

¹ So in original. Probably should be "subpart 2."

§ 7372. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title VI, §6302, as added Pub. L. 107–110, title VI, §601, Jan. 8, 2002, 115 Stat. 1898.)

PRIOR PROVISIONS

A prior section 7372, Pub. L. 89–10, title VI, §6402, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3713, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217a of this title.

A prior section 6302 of Pub. L. 89–10 was classified to section 7352 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 7373, Pub. L. 89–10, title VI, §6403, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3715, which related to Federal administration, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7217b of this title.

SUBCHAPTER VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

CODIFICATION

Title VII 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 VII is shown, herein, as having been added by Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907, 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.

PART A—INDIAN EDUCATION

§ 7401. Statement of policy

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

(Pub. L. 89–10, title VII, §7101, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1907.)

PRIOR PROVISIONS

A prior section 7401, Pub. L. 89–10, title VII, §7101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3716, set forth short title of Bilingual Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

SAVINGS PROVISIONS

Pub. L. 107–110, title VII, §703, Jan. 8, 2002, 115 Stat. 1947, provided that: "Funds appropriated for parts A, B, and C of title IX of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7801 et seq., 7901 et seq., 7931 et seq.] (as in effect on the day before the date

of enactment of this Act [Jan. 8, 2002]) shall be available for use under parts A, B, and C, respectively, of title VII of such Act [parts A, B, and C, respectively, of this subchapter], as added by this section [section 701]."

EXECUTIVE ORDER NO. 13096

Ex. Ord. No. 13096, Aug. 6, 1998, 63 F.R. 42681, which related to American Indian and Alaska Native education, was revoked by Ex. Ord. No. 13336, §9(b), Apr. 30, 2004, 69 F.R. 25297, formerly set out below.

EXECUTIVE ORDER NO. 13336

Ex. Ord. No. 13336, Apr. 30, 2004, 69 F.R. 25295, which established the Interagency Working Group on American Indian and Alaska Native Education and required a study, report, and conference relating to American Indian and Alaska Native students' achievement under the No Child Left Behind Act of 2001, was revoked by Ex. Ord. No. 13592, §5(c), Dec. 2, 2011, 76 F.R. 76607, set out below.

EX. ORD. NO. 13592. IMPROVING AMERICAN INDIAN AND ALASKA NATIVE EDUCATIONAL OPPORTUNITIES AND STRENGTHENING TRIBAL COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13592, Dec. 2, 2011, 76 F.R. 76603, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. Policy. The United States has a unique political and legal relationship with the federally recognized American Indian and Alaska Native (AI/AN) tribes across the country, as set forth in the Constitution of the United States, treaties, Executive Orders, and court decisions. For centuries, the Federal Government's relationship with these tribes has been guided by a trust responsibility—a long-standing commitment on the part of our Government to protect the unique rights and ensure the well-being of our Nation's tribes, while respecting their tribal sovereignty. In recognition of that special commitment—and in fulfillment of the solemn obligations it entails—Federal agencies must help improve educational opportunities provided to all AI/AN students, including students attending public schools in cities and in rural areas, students attending schools operated and funded by the Department of the Interior's Bureau of Indian Education (BIE), and students attending postsecondary institutions, including Tribal Colleges and Universities (TCUs). This is an urgent need. Recent studies show that AI/AN students are dropping out of school at an alarming rate, that our Nation has made little or no progress in closing the achievement gap between AI/AN students and their non-AI/AN student counterparts, and that many Native languages are on the verge of extinction.

It is the policy of my Administration to support activities that will strengthen the Nation by expanding educational opportunities and improving educational outcomes for all AI/AN students in order to fulfill our commitment to furthering tribal self-determination and to help ensure that AI/AN students have an opportunity to learn their Native languages and histories and receive complete and competitive educations that prepare them for college, careers, and productive and satisfying lives.

My Administration is also committed to improving educational opportunities for students attending TCUs. TCUs maintain, preserve, and restore Native languages and cultural traditions; offer a high-quality college education; provide career and technical education, job training, and other career-building programs; and often serve as anchors in some of the country's poorest and most remote areas.

SEC. 2. Definitions. (a) "Agency" means any executive department or agency designated by the Secretary of Education and the Secretary of the Interior to participate in this order.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that