

classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (e), is Pub. L. 108-446, Dec. 3, 2004, 118 Stat. 2647. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1400 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 1417, Pub. L. 91-230, title VI, §617, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 100, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1417, Pub. L. 91-230, title VI, §617, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(g), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101-476, title IX, §901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

### § 1418. Program information

#### (a) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:

(1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:

(i) Receiving a free appropriate public education.

(ii) Participating in regular education.

(iii) In separate classes, separate schools or facilities, or public or private residential facilities.

(iv) For each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.

(v)(I) Removed to an interim alternative educational setting under section 1415(k)(1) of this title.

(II) The acts or items precipitating those removals.

(III) The number of children with disabilities who are subject to long-term suspensions or expulsions.

(B) The number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services.

(C) The number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.

(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.

(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.

(F) The number of due process complaints filed under section 1415 of this title and the number of hearings conducted.

(G) The number of hearings requested under section 1415(k) of this title and the number of changes in placements ordered as a result of those hearings.

(H) The number of mediations held and the number of settlement agreements reached through such mediations.

(2) The number and percentage of infants and toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 1432 of this title), and who are receiving early intervention services under subchapter III.

(3) Any other information that may be required by the Secretary.

#### (b) Data reporting

##### (1) Protection of identifiable data

The data described in subsection (a) shall be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.

##### (2) Sampling

The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

#### (c) Technical assistance

The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this chapter.

#### (d) Disproportionality

##### (1) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title;

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

##### (2) Review and revision of policies, practices, and procedures

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accord-

ance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter;

(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 1413(f) of this title to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

(C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

(Pub. L. 91-230, title VI, §618, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2738.)

#### PRIOR PROVISIONS

A prior section 1418, Pub. L. 91-230, title VI, §618, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 101, related to program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1418, Pub. L. 91-230, title VI, §618, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §§3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99-457, title IV, §406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100-630, title I, §102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101-476, title II, §203, Oct. 30, 1990, 104 Stat. 1112, related to evaluation and program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

### § 1419. Preschool grants

#### (a) In general

The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter—

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

#### (b) Eligibility

A State shall be eligible for a grant under this section if such State—

(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

#### (c) Allocations to States

##### (1) In general

The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

##### (2) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is

equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

#### (A) Allocation

##### (i) In general

Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount the State received under this section for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

##### (ii) Data

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

#### (B) Limitations

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

##### (i) Preceding years

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

##### (ii) Minimum

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1997; and

(bb)  $\frac{1}{3}$  of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

##### (iii) Maximum

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—