

(July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

PART C—LOCAL PROVISIONS

§ 2351. Distribution of funds to secondary education programs

(a) Distribution rules

Except as provided in section 2353 of this title and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 2322(a)(1) of this title to carry out this section to local educational agencies within the State as follows:

(1) Thirty percent

Thirty percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all local educational agencies in the State for such preceding fiscal year, as determined on the basis of the most recent satisfactory—

(A) data provided to the Secretary by the Bureau of the Census for the purpose of determining eligibility under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]; or

(B) student membership data collected by the National Center for Education Statistics through the Common Core of Data survey system.

(2) Seventy percent

Seventy percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency and are from families below the poverty level for the preceding fiscal year, as determined on the basis of the most recent satisfactory data used under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6333(c)(1)(A)], compared to the total number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

(3) Adjustments

Each eligible agency, in making the allocations under paragraphs (1) and (2), shall adjust the data used to make the allocations to—

(A) reflect any change in school district boundaries that may have occurred since the data were collected; and

(B) include local educational agencies without geographical boundaries, such as charter schools and secondary schools funded by the Bureau of Indian Affairs.

(b) Waiver for more equitable distribution

The Secretary may waive the application of subsection (a) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) to local educational agencies within the State than the formula described in subsection (a); and

(2) includes a proposal for such an alternative formula.

(c) Minimum allocation

(1) In general

Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than \$15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) Waiver

The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

(A)(i) is located in a rural, sparsely populated area; or

(ii) is a public charter school operating secondary school career and technical education programs; and

(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

(3) Redistribution

Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(d) Limited jurisdiction agencies

(1) In general

In applying the provisions of subsection (a), no eligible agency receiving assistance under this subchapter shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) Special rule

The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(e) Allocations to area career and technical education schools and educational service agencies

(1) In general

Each eligible agency shall distribute the portion of funds made available under section

2322(a)(1) of this title for any fiscal year by such eligible agency for career and technical education activities at the secondary level under this section to the appropriate area career and technical education school or educational service agency in any case in which the area career and technical education school or educational service agency, and the local educational agency concerned—

(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

(B) have entered into or will enter into a cooperative arrangement for such purpose.

(2) Allocation basis

If an area career and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area career and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending career and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years).

(3) Appeals procedure

The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area career and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

(f) Consortium requirements

(1) Alliance

Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 2355 of this title is encouraged to—

(A) form a consortium or enter into a cooperative agreement with an area career and technical education school or educational service agency offering programs that meet the requirements of section 2355 of this title;

(B) transfer such allocation to the area career and technical education school or educational service agency; and

(C) operate programs that are of sufficient size, scope, and quality to be effective.

(2) Funds to consortium

Funds allocated to a consortium formed to meet the requirements of this subsection shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this subchapter. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only 1 member of the consortium.

(g) Data

The Secretary shall collect information from eligible agencies regarding the specific dollar al-

locations made available by the eligible agency for career and technical education programs under subsections (a), (b), (c), (d), and (e) and how these allocations are distributed to local educational agencies, area career and technical education schools, and educational service agencies, within the State in accordance with this section.

(h) Special rule

Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

(Pub. L. 88-210, title I, §131, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 727.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(1)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 2351, Pub. L. 88-210, title I, §131, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3109, related to distribution of funds to secondary school programs, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2351, Pub. L. 88-210, title III, §301, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2457, related to applications by community-based organizations, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2352. Distribution of funds for postsecondary education programs

(a) Allocation

(1) In general

Except as provided in subsections (b) and (c) and section 2353 of this title, each eligible agency shall distribute the portion of the funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

(2) Formula

Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 2355 of this title offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

(3) Consortium requirements

(A) In general

In order for a consortium of eligible institutions described in paragraph (2) to receive