

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

assistance pursuant to such paragraph, such consortium shall operate joint projects that—

- (i) provide services to all postsecondary institutions participating in the consortium; and
- (ii) are of sufficient size, scope, and quality to be effective.

**(B) Funds to consortium**

Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall 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.

**(4) Waiver**

The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

**(b) Waiver for more equitable distribution**

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

- (1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and
- (2) includes a proposal for such an alternative formula.

**(c) Minimum grant amount**

**(1) In general**

No institution or consortium shall receive an allocation under this section in an amount that is less than \$50,000.

**(2) Redistribution**

Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

(Pub. L. 88-210, title I, §132, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 730.)

PRIOR PROVISIONS

A prior section 2352, Pub. L. 88-210, title I, §132, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3112, related to distribution of funds for postsecondary vocational and technical education programs, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2352, Pub. L. 88-210, title III, §302, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 101-392, title III, §301, Sept. 25, 1990, 104 Stat. 786, related to use of funds, prior to the general amendment of this chapter by Pub. L. 105-332.

**§ 2353. Special rules for career and technical education**

**(a) Special rule for minimal allocation**

**(1) General authority**

Notwithstanding the provisions of sections 2351 and 2352 of this title and in order to make

a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 2351 or 2352 of this title, such eligible agency may distribute such minimal amount for such year—

- (A) on a competitive basis; or
- (B) through any alternative method determined by the eligible agency.

**(2) Minimal amount**

For purposes of this section, the term “minimal amount” means not more than 15 percent of the total amount made available for distribution under section 2322(a)(1) of this title.

**(b) Redistribution**

**(1) In general**

In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 2351 or 2352 of this title, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 2351 or 2352 of this title, as appropriate.

**(2) Redistribution of amounts returned late in an academic year**

In any academic year in which amounts are returned to the eligible agency under section 2351 or 2352 of this title and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 2322(a)(1) of this title for the following academic year.

**(c) Construction**

Nothing in section 2351 or 2352 of this title shall be construed—

(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 2351 of this title, from working with an eligible institution or consortium thereof that receives assistance under section 2352 of this title, to carry out career and technical education programs at the secondary level in accordance with this subchapter;

(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 2352 of this title, from working with a local educational agency or consortium thereof that receives assistance under section 2351 of this title, to carry out postsecondary and adult career and technical education programs in accordance with this subchapter; or

(3) to require a charter school, that provides career and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this subchapter unless the charter school is explicitly permitted to do so under the State's charter school statute.

**(d) Consistent application**

For purposes of this section, the eligible agency shall provide funds to charter schools offer-