

(b) Authorized activities**(1) Flexibility**

In implementing the comprehensive plan described in subsection (a) of this section, each State educational agency, where applicable through its local educational agencies, retains the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory life-style, and to permit these children to participate effectively in school.

(2) Unaddressed needs

Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this subchapter may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

(3) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

(4) Special rule

Notwithstanding section 6314 of this title, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the unique educational needs of migratory children before using funds under this part for schoolwide programs under section 6314 of this title.

(Pub. L. 89-10, title I, §1306, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1576; amended Pub. L. 114-95, title I, §1301(e), Dec. 10, 2015, 129 Stat. 1897.)

PRIOR PROVISIONS

A prior section 6396, Pub. L. 89-10, title I, §1306, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3589, related to comprehensive needs assessments and service-delivery plans, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-95, §1301(e)(1)(A), substituted “unique” for “special” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 114-95, §1301(e)(1)(B)(i), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7842 of this title.

Subsec. (a)(1)(B)(i). Pub. L. 114-95, §1301(e)(1)(B)(ii), substituted “unique” for “special”.

Subsec. (a)(1)(C). Pub. L. 114-95, §1301(e)(1)(C), substituted “challenging State academic standards” for “challenging State academic content standards and challenging State student academic achievement standards”.

Subsec. (a)(1)(F). Pub. L. 114-95, §1301(e)(1)(D), substituted “part A of subchapter III” for “part A or B of subchapter III”.

Subsec. (b)(1). Pub. L. 114-95, §1301(e)(2)(A), substituted “retains the flexibility to” for “shall have the flexibility to”.

Subsec. (b)(4). Pub. L. 114-95, §1301(e)(2)(B), substituted “unique educational needs” for “special educational needs”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6397. Bypass

The Secretary may use all or part of any State’s allocation under this part to make arrangements with any public or private agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the educational achievement of such children.

(Pub. L. 89-10, title I, §1307, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1578; amended Pub. L. 114-95, title I, §1301(f), Dec. 10, 2015, 129 Stat. 1898.)

PRIOR PROVISIONS

A prior section 6397, Pub. L. 89-10, title I, §1307, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to bypass of State, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Pub. L. 114-95, §1301(f)(1), struck out “non-profit” before “agency” in introductory provisions.

Par. (3). Pub. L. 114-95, §1301(f)(2), substituted “educational achievement” for “welfare or educational attainment”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6398. Coordination of migrant education activities**(a) Improvement of coordination****(1) In general**

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies’ educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory children.

(2) Duration

Grants under this subsection may be awarded for not more than 5 years.

(b) Student records**(1) Assistance**

The Secretary shall assist States in the electronic transfer of student records and in determining the number of migratory children in each State.

(2) Information system**(A) In general**

The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students eligible under this part. The Secretary shall ensure that such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, December 10, 2015. Such information may include—

- (i) immunization records and other health information;
- (ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments under section 6311(b)(2) of this title;
- (iii) other academic information essential to ensuring that migratory children achieve to the challenging State academic standards; and
- (iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(B) Consultation

The Secretary shall maintain ongoing consultation with the States, local educational agencies, and other migratory student service providers on—

- (i) the effectiveness of the system described in subparagraph (A); and
- (ii) the ongoing improvement of such system.

(C) Notice and comment

After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on any new proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.

(3) No cost for certain transfers

A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than \$10,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

From the amounts made available to carry out this section for any fiscal year, the Sec-

retary may reserve not more than \$3,000,000 to award grants of not more than \$250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

(e) Data collection

The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

(Pub. L. 89-10, title I, §1308, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1578; amended Pub. L. 114-95, title I, §1301(g), Dec. 10, 2015, 129 Stat. 1898.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(A)(iv), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6398, Pub. L. 89-10, title I, §1308, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3590, related to coordination of migrant education activities, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-95, §1301(g)(1), struck out “nonprofit” before “entities”, inserted “through” after “including”, and substituted “children” for “students”.

Subsec. (b)(1). Pub. L. 114-95, §1301(g)(2)(A), struck out “developing effective methods for” before “the electronic transfer”.

Subsec. (b)(2)(A). Pub. L. 114-95, §1301(g)(2)(B)(i)(I), added introductory provisions and struck out former introductory provisions which read as follows: “The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, January 8, 2002, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—”.

Subsec. (b)(2)(A)(ii). Pub. L. 114-95, §1301(g)(2)(B)(i)(II), substituted “assessments under section 6311(b)(2)” for “assessments required under section 6311(b)”.

Subsec. (b)(2)(A)(iii). Pub. L. 114-95, §1301(g)(2)(B)(i)(III), substituted “the challenging State academic standards” for “high standards”.

Subsec. (b)(2)(B), (C). Pub. L. 114-95, §1301(g)(2)(B)(ii)-(iv), added subpar. (B), redesignated former subpar. (B) as (C), and in subpar. (C) substituted “any new proposed data elements” for “the proposed data elements” and struck out at end “Such publication shall occur not later than 120 days after January 8, 2002.”

Subsec. (b)(4). Pub. L. 114-95, §1301(g)(2)(C), struck out par. (4) which related to report to Congress not later than Apr. 30, 2003, on the Secretary’s findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6399. Definitions

As used in this part:

(1) Local operating agency

The term “local operating agency” means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State’s migrant education program or projects directly.

(2) Migratory agricultural worker

The term “migratory agricultural worker” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(3) Migratory child

The term “migratory child” means a child or youth who made a qualifying move in the preceding 36 months—

(A) as a migratory agricultural worker or a migratory fisher; or

(B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(4) Migratory fisher

The term “migratory fisher” means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

(5) Qualifying move

The term “qualifying move” means a move due to economic necessity—

(A) from one residence to another residence; and

(B) from one school district to another school district, except—

(i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administra-

tive area to another within such district; or

(ii) in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

(Pub. L. 89-10, title I, §1309, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1579; amended Pub. L. 114-95, title I, §1301(h), Dec. 10, 2015, 129 Stat. 1899.)

PRIOR PROVISIONS

A prior section 6399, Pub. L. 89-10, title I, §1309, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3591, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Par. (1)(B). Pub. L. 114-95, §1301(h)(1), struck out “nonprofit” before “private agency”.

Pars. (2) to (5). Pub. L. 114-95, §1301(h)(2), added pars. (2) to (5) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “The term ‘migratory child’ means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

“(A) has moved from one school district to another;

“(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

“(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

§ 6421. Purpose and program authorization**(a) Purpose**

It is the purpose of this part—

(1) to improve educational services for children and youth in local, tribal, and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education and the involvement of their families and communities.

(b) Program authorized

In order to carry out the purpose of this part and from amounts appropriated under section