

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

## SUBCHAPTER VIII—GENERAL PROVISIONS

## CODIFICATION

Pub. L. 114-95, title VIII, §8001(a), Dec. 10, 2015, 129 Stat. 2088, redesignated subchapter IX (§7801 et seq.) of this chapter as this subchapter.

Title VIII of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub.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, and subsequently revised, restated, redesignated, and amended by other public laws. Title VIII is shown, herein, as having been added as title IX of Pub. L. 89-10 by Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107-110. Title IX of Pub. L. 89-10 was subsequently redesignated title VIII by Pub. L. 114-95, title VIII, §8001(a), Dec. 10, 2015, 129 Stat. 2088, and transferred to this subchapter. See Codification note preceding section 6301 of this title.

## PRIOR PROVISIONS

A prior title VIII of the Elementary and Secondary Education Act of 1965, comprising former subchapter VIII (§7701 et seq.) of this chapter, was redesignated title VII of the Act by Pub. L. 114-95, title VII, §7001(c), Dec. 10, 2015, 129 Stat. 2074, and transferred to subchapter VII (§7701 et seq.) of this chapter.

## PART A—DEFINITIONS

## § 7801. Definitions

Except as otherwise provided, in this chapter:

**(1) Average daily attendance****(A) In general**

Except as provided otherwise by State law or this paragraph, the term “average daily attendance” means—

- (i) the aggregate number of days of attendance of all students during a school year; divided by
- (ii) the number of days school is in session during that year.

**(B) Conversion**

The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

**(C) Special rule**

If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this chapter—

- (i) consider the child to be in attendance at a school of the agency making the payment; and
- (ii) not consider the child to be in attendance at a school of the agency receiving the payment.

**(D) Children with disabilities**

If a local educational agency makes a tuition payment to a private school or to a pub-

lic school of another local educational agency for a child with a disability, as defined in section 1401 of this title, the Secretary shall, for the purpose of this chapter, consider the child to be in attendance at a school of the agency making the payment.

**(2) Average per-pupil expenditure**

The term “average per-pupil expenditure” means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

**(3) Child**

The term “child” means any person within the age limits for which the State provides free public education.

**(4) Child with a disability**

The term “child with a disability” has the same meaning given that term in section 1401 of this title.

**(5) Community-based organization**

The term “community-based organization” means a public or private nonprofit organization of demonstrated effectiveness that—

- (A) is representative of a community or significant segments of a community; and
- (B) provides educational or related services to individuals in the community.

**(6) Consolidated local application**

The term “consolidated local application” means an application submitted by a local educational agency pursuant to section 7845 of this title.

**(7) Consolidated local plan**

The term “consolidated local plan” means a plan submitted by a local educational agency pursuant to section 7845 of this title.

**(8) Consolidated State application**

The term “consolidated State application” means an application submitted by a State educational agency pursuant to section 7842 of this title.

**(9) Consolidated State plan**

The term “consolidated State plan” means a plan submitted by a State educational agency pursuant to section 7842 of this title.

**(10) County**

The term “county” means one of the divisions of a State used by the Secretary of Com-

merce in compiling and reporting data regarding counties.

**(11) Covered program**

The term “covered program” means each of the programs authorized by—

- (A) part A of subchapter I;
- (B) part C of subchapter I;
- (C) part D of subchapter I;
- (D) part A of subchapter II;
- (E) part A of subchapter III;
- (F) part A of subchapter IV;
- (G) part B of subchapter IV; and
- (H) subpart 2 of part B of subchapter V.

**(12) Current expenditures**

The term “current expenditures” means expenditures for free public education—

- (A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but
- (B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subchapter I.

**(13) Department**

The term “Department” means the Department of Education.

**(14) Distance learning**

The term “distance learning” means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

**(15) Dual or concurrent enrollment program**

The term “dual or concurrent enrollment program” means a program offered by a partnership between at least one institution of higher education and at least one local educational agency through which a secondary school student who has not graduated from high school with a regular high school diploma is able to enroll in one or more postsecondary courses and earn postsecondary credit that—

- (A) is transferable to the institutions of higher education in the partnership; and
- (B) applies toward completion of a degree or recognized educational credential as described in the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.].

**(16) Early childhood education program**

The term “early childhood education program” has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

**(17) Early college high school**

The term “early college high school” means a partnership between at least one local educational agency and at least one institution of higher education that allows participants to simultaneously complete requirements toward earning a regular high school diploma and earn not less than 12 credits that are transferable to the institutions of higher education in

the partnership as part of an organized course of study toward a postsecondary degree or credential at no cost to the participant or participant’s family.

**(18) Educational service agency**

The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

**(19) Elementary school**

The term “elementary school” means a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

**(20) English learner**

The term “English learner”, when used with respect to an individual, means an individual—

- (A) who is aged 3 through 21;
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) who was not born in the United States or whose native language is a language other than English;
- (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
- (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or
- (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—
  - (i) the ability to meet the challenging State academic standards;
  - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
  - (iii) the opportunity to participate fully in society.

**(21) Evidence-based**

**(A) In general**

Except as provided in subparagraph (B), the term “evidence-based”, when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

- (i) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—
  - (I) strong evidence from at least 1 well-designed and well-implemented experimental study;
  - (II) moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or
  - (III) promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)(I) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and  
 (II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

**(B) Definition for specific activities funded under this chapter**

When used with respect to interventions or improvement activities or strategies funded under section 6303 of this title, the term “evidence-based” means a State, local educational agency, or school activity, strategy, or intervention that meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i).

**(22) Expanded learning time**

The term “expanded learning time” means using a longer school day, week, or year schedule to significantly increase the total number of school hours, in order to include additional time for—

(A) activities and instruction for enrichment as part of a well-rounded education; and

(B) instructional and support staff to collaborate, plan, and engage in professional development (including professional development) within and across grades and subjects.

**(23) Extended-year adjusted cohort graduation rate**

**(A) In general**

The term “extended-year adjusted cohort graduation rate” means the fraction—

(i) the denominator of which consists of the number of students who form the original cohort of entering first-time students in grade 9 enrolled in the high school no later than the date by which student membership data must be collected annually by State educational agencies for submission to the National Center for Education Statistics under section 9543 of this title, adjusted by—

(I) adding the students who joined that cohort, after the date of the determination of the original cohort; and

(II) subtracting only those students who left that cohort, after the date of the determination of the original cohort, as described in subparagraph (B); and

(ii) the numerator of which—

(I) consists of the sum of—

(aa) the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

(AA) one or more additional years beyond the fourth year of high school; or

(BB) a summer session immediately following the additional year of high school; and

(bb) all students with the most significant cognitive disabilities in the

cohort, as adjusted under clause (i), assessed using the alternate assessment aligned to alternate academic achievement standards under section 6311(b)(2)(D) of this title and awarded a State-defined alternate diploma that is—

(AA) standards-based;

(BB) aligned with the State requirements for the regular high school diploma; and

(CC) obtained within the time period for which the State ensures the availability of a free appropriate public education under section 1412(a)(1) of this title; and

(II) shall not include any student awarded a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

**(B) Cohort removal**

To remove a student from a cohort, a school or local educational agency shall require documentation, or obtain documentation from the State educational agency, to confirm that the student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased.

**(C) Transferred out**

For purposes of this paragraph, the term “transferred out” has the meaning given the term in clauses (i), (ii), and (iii) of paragraph (25)(C).

**(D) Special rules**

**(i) Schools starting after grade 9**

For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the date by which student membership data is collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title.

**(ii) Very small schools**

A State educational agency may calculate the extended year adjusted cohort graduation rate described under this paragraph for a high school with an average enrollment over a 4-year period of less than 100 students for the purposes of section 6311(c)(4) of this title by—

(I) averaging the extended-year adjusted cohort graduation rate of the school over a period of three years; or

(II) establishing a minimum number of students that must be included in the cohort described in clause (i) of subparagraph (A) that will provide a valid graduation rate calculation as determined by the Secretary, below which the school shall be exempt from differentiation and identification under such section.

**(24) Family literacy services**

The term “family literacy services” means services provided to participants on a vol-

untary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

**(25) Four-year adjusted cohort graduation rate**

**(A) In general**

The term “four-year adjusted cohort graduation rate” means the fraction—

(i) the denominator of which consists of the number of students who form the original cohort of entering first-time students in grade 9 enrolled in the high school no later than the date by which student membership data is collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title, adjusted by—

(I) adding the students who joined that cohort, after the date of the determination of the original cohort; and

(II) subtracting only those students who left that cohort, after the date of the determination of the original cohort, as described in subparagraph (B); and

(ii) the numerator of which—

(I) consists of the sum of—

(aa) the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

(AA) the fourth year of high school; or

(BB) a summer session immediately following the fourth year of high school; and

(bb) all students with the most significant cognitive disabilities in the cohort, as adjusted under clause (i), assessed using the alternate assessment aligned to alternate academic achievement standards under section 6311(b)(2)(D) of this title and awarded a State-defined alternate diploma that is—

(AA) standards-based;

(BB) aligned with the State requirements for the regular high school diploma; and

(CC) obtained within the time period for which the State ensures the availability of a free appropriate public education under section 1412(a)(1) of this title; and

(II) shall not include any student awarded a recognized equivalent of a diploma, such as a general equivalency di-

ploma, certificate of completion, certificate of attendance, or similar lesser credential.

**(B) Cohort removal**

To remove a student from a cohort, a school or local educational agency shall require documentation, or obtain documentation from the State educational agency, to confirm that the student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased.

**(C) Transferred out**

**(i) In general**

For purposes of this paragraph, the term “transferred out” means that a student, as confirmed by the high school or local educational agency in accordance with clause (ii), has transferred to—

(I) another school from which the student is expected to receive a regular high school diploma; or

(II) another educational program from which the student is expected to receive a regular high school diploma or an alternate diploma that meets the requirements of subparagraph (A)(ii)(I)(bb).

**(ii) Confirmation requirements**

**(I) Documentation required**

The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation of such transfer from the receiving school or program in which the student enrolled.

**(II) Lack of confirmation**

A student who was enrolled in a high school, but for whom there is no confirmation of the student having transferred out, shall remain in the adjusted cohort.

**(iii) Programs not providing credit**

Except as provided in subparagraph (A)(ii)(I)(bb), a student who is retained in grade or who is enrolled in a program leading to a general equivalency diploma, or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma, shall not be considered transferred out and shall remain in the adjusted cohort.

**(D) Special rules**

**(i) Schools starting after grade 9**

For those high schools that start after grade 9, the original cohort shall be calculated for the earliest high school grade students attend no later than the date by which student membership data must be collected annually by State educational agencies for submission to the National Center for Education Statistics pursuant to section 9543 of this title.

**(ii) Very small schools**

A State educational agency may calculate the four-year adjusted cohort grad-

uation rate described under this paragraph for a high school with an average enrollment over a 4-year period of less than 100 students for the purposes of section 6311(c)(4) of this title by—

(I) averaging the four-year adjusted cohort graduation rate of the school over a period of three years; or

(II) establishing a minimum number of students that must be included in the cohort described in clause (i) of subparagraph (A) that will provide a valid graduation rate calculation as determined by the Secretary, below which the school shall be exempt from differentiation and identification under such section.

**(26) Free public education**

The term “free public education” means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

**(27) Gifted and talented**

The term “gifted and talented”, when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

**(28) High school**

The term “high school” means a secondary school that—

(A) grants a diploma, as defined by the State; and

(B) includes, at least, grade 12.

**(29) Institution of higher education**

The term “institution of higher education” has the meaning given that term in section 1001(a) of this title.

**(30) Local educational agency**

**(A) In general**

The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

**(B) Administrative control and direction**

The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

**(C) Bureau of Indian Education schools**

The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

**(D) Educational service agencies**

The term includes educational service agencies and consortia of those agencies.

**(E) State educational agency**

The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

**(31) Mentoring**

The term “mentoring”, except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

**(32) Middle grades**

The term middle grades means any of grades 5 through 8.

**(33) Multi-tier system of supports**

The term “multi-tier system of supports” means a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students’ needs, with regular observation to facilitate data-based instructional decisionmaking.

**(34) Native American and Native American language**

The terms “Native American” and “Native American language” have the same meaning given those terms in section 2902 of title 25.

**(35) Other staff**

The term “other staff” means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

**(36) Outlying area**

The term “outlying area”—

(A) means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;

(B) means the Republic of Palau, to the extent permitted under section 1921d(f)(1)(B)(ix) of title 48 and until an

agreement for the extension of United States education assistance under the Compact of Free Association becomes effective for the Republic of Palau; and

(C) for the purpose of any discretionary grant program under this chapter, includes the Republic of the Marshall Islands and the Federated States of Micronesia, to the extent permitted under section 1921d(f)(1)(B)(viii) of title 48.

**(37) Paraprofessional**

The term “paraprofessional”, also known as a “paraeducator”, includes an education assistant and instructional assistant.

**(38) Parent**

The term “parent” includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).

**(39) Parental involvement**

The term “parental involvement” means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

(A) that parents play an integral role in assisting their child’s learning;

(B) that parents are encouraged to be actively involved in their child’s education at school;

(C) that parents are full partners in their child’s education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child; and

(D) the carrying out of other activities, such as those described in section 6318 of this title.

**(40) Pay for success initiative**

The term “pay for success initiative” means a performance-based grant, contract, or cooperative agreement awarded by a public entity in which a commitment is made to pay for improved outcomes that result in social benefit and direct cost savings or cost avoidance to the public sector. Such an initiative shall include—

(A) a feasibility study on the initiative describing how the proposed intervention is based on evidence of effectiveness;

(B) a rigorous, third-party evaluation that uses experimental or quasi-experimental design or other research methodologies that allow for the strongest possible causal inferences to determine whether the initiative has met its proposed outcomes;

(C) an annual, publicly available report on the progress of the initiative; and

(D) a requirement that payments are made to the recipient of a grant, contract, or cooperative agreement only when agreed upon outcomes are achieved, except that the entity may make payments to the third party conducting the evaluation described in subparagraph (B).

**(41) Poverty line**

The term “poverty line” means the poverty line (as defined by the Office of Management

and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

**(42) Professional development**

The term “professional development” means activities that—

(A) are an integral part of school and local educational agency strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards; and

(B) are sustained (not stand-alone, 1-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that—

(i) improve and increase teachers’—

(I) knowledge of the academic subjects the teachers teach;

(II) understanding of how students learn; and

(III) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator’s specific needs identified in observation or other feedback;

(iv) improve classroom management skills;

(v) support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(vi) advance teacher understanding of—

(I) effective instructional strategies that are evidence-based; and

(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(vii) are aligned with, and directly related to, academic goals of the school or local educational agency;

(viii) are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian tribes (as applicable), and administrators of schools to be served under this chapter;

(ix) are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(x) to the extent appropriate, provide training for teachers, principals, and other school leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(xi) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(xii) are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(xiii) include instruction in the use of data and assessments to inform and instruct classroom practice;

(xiv) include instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(xv) involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(xvi) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of subchapter I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(xvii) provide follow-up training to teachers who have participated in activities described in this paragraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and

(xviii) where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

**(43) Regular high school diploma**

The term “regular high school diploma”—

(A) means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not

be aligned to the alternate academic achievement standards described in section 6311(b)(1)(E) of this title; and

(B) does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

**(44) School leader**

The term “school leader” means a principal, assistant principal, or other individual who is—

(A) an employee or officer of an elementary school or secondary school, local educational agency, or other entity operating an elementary school or secondary school; and

(B) responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.

**(45) Secondary school**

The term “secondary school” means a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

**(46) Secretary**

The term “Secretary” means the Secretary of Education.

**(47) Specialized instructional support personnel; specialized instructional support services**

**(A) Specialized instructional support personnel**

The term “specialized instructional support personnel” means—

(i) school counselors, school social workers, and school psychologists; and

(ii) other qualified professional personnel, such as school nurses, speech language pathologists, and school librarians, involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 1401 of this title) as part of a comprehensive program to meet student needs.

**(B) Specialized instructional support services**

The term “specialized instructional support services” means the services provided by specialized instructional support personnel.

**(48) State**

The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

**(49) State educational agency**

The term “State educational agency” means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

**(50) Technology**

The term “technology” means modern information, computer and communication technology products, services, or tools, including, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content (including multimedia content) and data storage.

**(51) Universal design for learning**

The term “universal design for learning” has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

**(52) Well-rounded education**

The term “well-rounded education” means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.

(Pub. L. 89–10, title VIII, §8101, formerly title IX, §9101, as added Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956; renumbered title VIII, §8101, and amended Pub. L. 114–95, title VIII, §§8001(a)(1), (b)(2), (3), 8002, Dec. 10, 2015, 129 Stat. 2088, 2089.)

## REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (15)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of this title and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

## PRIOR PROVISIONS

A prior section 7801, Pub. L. 89–10, title IX, §9101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3773, set forth findings regarding Indian education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

## AMENDMENTS

2015—Pub. L. 114–95, §8002(19), struck out undesignated par. following par. (47) which defined “State”.

Pars. (3) to (6). Pub. L. 114–95, §8002(1), (2), redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which defined “beginning teacher”.

Pars. (7), (8). Pub. L. 114–95, §8002(2), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Pub. L. 114–95, §8001(b)(2), made technical amendment to reference in original act which appears in text as reference to section 7845 of this title.

Pars. (9), (10). Pub. L. 114–95, §8002(2), redesignated pars. (10) and (12) as (9) and (10), respectively. Former par. (9) redesignated (8).

Pub. L. 114–95, §8001(b)(3), made technical amendment to reference in original act which appears in text as reference to section 7842 of this title.

Par. (11). Pub. L. 114–95, §8002(3), added par. (11) and struck out former par. (11) which defined “covered program”.

Pub. L. 114–95, §8002(1), (2), redesignated par. (13) as (11) and struck out former par. (11) which defined “core academic subjects”.

Par. (12). Pub. L. 114–95, §8002(3), added par. (12) and struck out former par. (12) which defined “current expenditures”.

Pub. L. 114–95, §8002(2), redesignated par. (14) as (12). Former par. (12) redesignated (10).

Pars. (13), (14). Pub. L. 114–95, §8002(2), redesignated pars. (15) and (16) as (13) and (14), respectively. Former pars. (13) and (14) redesignated (11) and (12), respectively.

Pars. (15) to (17). Pub. L. 114–95, §8002(4), added pars. (15) to (17). Former pars. (15), (16), and (17) redesignated (13), (14), and (18), respectively.

Par. (18). Pub. L. 114–95, §8002(2), redesignated par. (17) as (18). Former par. (18) redesignated (19).

Par. (19). Pub. L. 114–95, §8002(1), (2), redesignated par. (18) as (19) and struck out former par. (19) which defined “exemplary teacher”.

Par. (20). Pub. L. 114–95, §8002(5)(A), (B), substituted “English learner” for “Limited English proficient” in heading and “English learner” for “limited English proficient” in introductory provisions.

Pub. L. 114–95, §8002(2), redesignated par. (25) as (20). Former par. (20) redesignated (24).

Par. (20)(D)(i). Pub. L. 114–95, §8002(5)(C), substituted “challenging State academic standards” for “State’s proficient level of achievement on State assessments described in section 6311(b)(3) of this title”.

Pars. (21), (22). Pub. L. 114–95, §8002(6), added pars. (21) and (22). Former pars. (21) and (22) redesignated (26) and (27), respectively.

Par. (23). Pub. L. 114–95, §8002(1), (6), added par. (23) and struck out former par. (23) which defined “highly qualified”.

Par. (24). Pub. L. 114–95, §8002(2), redesignated par. (20) as (24). Former par. (24) redesignated (29).

Par. (25). Pub. L. 114–95, §8002(7), added par. (25). Former par. (25) redesignated (20).

Pars. (26), (27). Pub. L. 114–95, §8002(2), redesignated pars. (21) and (22) as (26) and (27), respectively. Former pars. (26) and (27) redesignated (30) and (31), respectively.

Par. (28). Pub. L. 114–95, §8002(8), added par. (28). Former par. (28) redesignated (34).

Par. (29). Pub. L. 114–95, §8002(2), redesignated par. (24) as (29). Former par. (29) redesignated (35).

Par. (30). Pub. L. 114–95, §8002(2), (9), redesignated par. (26) as (30) and, in subpar. (C), substituted “Bureau of Indian Education schools” for “BIA schools” in heading and “Indian Education” for “Indian Affairs” in two places in text. Former par. (30) redesignated (36).

Par. (31). Pub. L. 114–95, §8002(2), redesignated par. (27) as (31). Former par. (31) redesignated (38).

Pars. (32), (33). Pub. L. 114–95, §8002(10), added pars. (32) and (33). Former pars. (32) and (33) redesignated (39) and (41), respectively.

Par. (34). Pub. L. 114–95, §8002(2), redesignated par. (28) as (34). Former par. (34) redesignated (42).

Par. (35). Pub. L. 114–95, §8002(1), (2), (11), redesignated par. (29) as (35), substituted “specialized instructional support” for “pupil services”, and struck out former par. (35) which defined “public telecommunications entity”.

Par. (36). Pub. L. 114–95, §8002(12), added par. (36) and struck out former par. (36) which defined “outlying area”.

Pub. L. 114–95, §8002(1), (2), redesignated par. (30) as (36) and struck out former par. (36) which defined “pupil services personnel” and “pupil services”.

Par. (37). Pub. L. 114–95, §8002(1), (13), added par. (37) and struck out former par. (37) which defined “scientifically based research”.

Par. (38). Pub. L. 114–95, §8002(2), redesignated par. (31) as (38). Former par. (38) redesignated (45).

Par. (39). Pub. L. 114–95, §8002(2), (14), redesignated par. (32) as (39), inserted “and” after semicolon at end



of subpar. (C), and made technical amendment to reference in original act which appears in subpar. (D) as reference to section 6318 of this title. Former par. (39) redesignated (46).

Par. (40). Pub. L. 114-95, §8002(15), added par. (40).

Par. (41). Pub. L. 114-95, §8002(2), redesignated par. (33) as (41). Former par. (41) redesignated (49).

Par. (42). Pub. L. 114-95, §8002(16), added par. (42) and struck out former par. (42) which defined “professional development”.

Pub. L. 114-95, §8002(1), (2), redesignated par. (34) as (42) and struck out former par. (42) which defined “teacher mentoring”.

Pars. (43), (44). Pub. L. 114-95, §8002(17), added pars. (43) and (44). Former par. (43) redesignated (50).

Pars. (45), (46). Pub. L. 114-95, §8002(2), redesignated pars. (38) and (39) as (45) and (46), respectively.

Par. (47). Pub. L. 114-95, §8002(18), added par. (47).

Par. (48). Pub. L. 114-95, §8002(19), added par. (48).

Par. (49). Pub. L. 114-95, §8002(2), redesignated par. (41) as (49).

Par. (50). Pub. L. 114-95, §8002(20), added par. (50) and struck out former par. (50) which defined “technology”.

Pub. L. 114-95, §8002(2), redesignated par. (43) as (50). Pars. (51), (52). Pub. L. 114-95, §8002(21), added pars. (51) and (52).

#### 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.

#### HIGHLY QUALIFIED TEACHER

Pub. L. 111-242, §163, as added by Pub. L. 111-322, title I, §1(a)(2), Dec. 22, 2010, 124 Stat. 3521; amended by Pub. L. 112-175, §145, Sept. 28, 2012, 126 Stat. 1322; Pub. L. 113-46, div. A, §144, Oct. 17, 2013, 127 Stat. 565; Pub. L. 114-53, div. B, §140, Sept. 30, 2015, 129 Stat. 510, renumbered div. B, Pub. L. 114-113, §8(3), Dec. 18, 2015, 129 Stat. 2245, provided that:

“(a) A ‘highly qualified teacher’ includes a teacher who meets the requirements in 34 CFR 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

“(b) This provision is effective on the date of enactment of this provision [Dec. 22, 2010] through the end of the 2016-2017 academic year.

“(c) Not later than December 31, 2013, the Secretary of Education shall submit a report to the Committees on Appropriations and Health, Education, Labor, and Pensions of the Senate and the Committees on Appropriations and Education and the Workforce of the House of Representatives, using data required under existing law (section 1111(h)(6)(A) of Public Law 107-110 [probably meant section 1111(h)(6)(A) of Pub. L. 89-10, as added by Pub. L. 107-110; former 20 U.S.C. 6311(h)(6)(A)]) by State and each local educational agency, regarding the extent to which students in the following categories are taught by teachers who are deemed highly qualified pursuant to 34 CFR 200.56(a)(2)(ii) as published in the Federal Register on December 2, 2002:

“(1) Students with disabilities.

“(2) English Learners.

“(3) Students in rural areas.

“(4) Students from low-income families.”

#### § 7802. Applicability of subchapter

Parts B, C, D, E, and F of this subchapter do not apply to subchapter VII of this chapter.

(Pub. L. 89-10, title VIII, §8102, formerly title IX, §9102, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1966; renumbered title VIII, §8102, and amended Pub. L. 114-95, title VIII, §§8001(a)(1), 8003, Dec. 10, 2015, 129 Stat. 2088, 2089, 2099.)

#### PRIOR PROVISIONS

A prior section 7802, Pub. L. 89-10, title IX, §9102, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3774, set out purpose of provisions relating to Indian education, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107-110.

#### AMENDMENTS

2015—Pub. L. 114-95, §8003, substituted “Parts B, C, D, E, and F of this subchapter do not apply to subchapter VII” for “Parts B, C, D, and E of this subchapter do not apply to subchapter VIII”.

#### 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.

#### § 7803. Applicability to Bureau of Indian Education operated schools

For the purpose of any competitive program under this chapter—

(1) a consortium of schools operated by the Bureau of Indian Education;

(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

(Pub. L. 89-10, title VIII, §8103, formerly title IX, §9103, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1966; renumbered title VIII, §8103, and amended Pub. L. 114-95, title VIII, §§8001(a)(1), 8004, Dec. 10, 2015, 129 Stat. 2088, 2089, 2100.)

#### PRIOR PROVISIONS

Prior sections 7811 to 7818 were omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107-110.

Section 7811, Pub. L. 89-10, title IX, §9111, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3774, set forth purpose of provisions relating to formula grants to local educational agencies.

Section 7812, Pub. L. 89-10, title IX, §9112, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3774; amended Pub. L. 104-5, §1, Mar. 23, 1995, 109 Stat. 72, related to grants to local educational agencies.

Section 7813, Pub. L. 89-10, title IX, §9113, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3775, related to amount of grants.

Section 7814, Pub. L. 89-10, title IX, §9114, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3776, related to applications for grants.

Section 7815, Pub. L. 89-10, title IX, §9115, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3778; amended Pub. L. 105-332, §3(c)(2), Oct. 31, 1998, 112 Stat. 3125, related to authorized services and activities.

Section 7816, Pub. L. 89-10, title IX, §9116, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3779, related to student eligibility forms.

Section 7817, Pub. L. 89-10, title IX, §9117, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3781, related to payments.

Section 7818, Pub. L. 89-10, title IX, §9118, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3782, related to State educational agency review.