

**§ 6396. Comprehensive needs assessment and service-delivery plan; authorized activities**

**(a) Comprehensive plan**

**(1) In general**

Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this chapter or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 7842 of this title, if—

(i) the unique needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic standards that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and language instruction educational programs under part A of subchapter III; and

(G) provides for the integration of services available under this part with services provided by such other programs.

**(2) Duration of the plan**

Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

**(b) Authorized activities**

**(1) Flexibility**

In implementing the comprehensive plan described in subsection (a), 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 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—