

§ 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—

(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 Secretary 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;