

## PRIOR PROVISIONS

A prior section 1407, Pub. L. 91-230, title VI, §608, as added Pub. L. 98-199, §6, Dec. 2, 1983, 97 Stat. 1359; amended Pub. L. 100-630, title I, §101(d), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101-476, title IX, §901(b)(24), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to regulation requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1408. Paperwork reduction****(a) Pilot program****(1) Purpose**

The purpose of this section is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this chapter, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

**(2) Authorization****(A) In general**

In order to carry out the purpose of this section, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, subchapter II for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

**(B) Exception**

The Secretary shall not waive under this section any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

**(C) Rule of construction**

Nothing in this section shall be construed to—

- (i) affect the right of a child with a disability to receive a free appropriate public education under subchapter II; and
- (ii) permit a State or local educational agency to waive procedural safeguards under section 1415 of this title.

**(3) Proposal****(A) In general**

A State desiring to participate in the program under this section shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

**(B) Content**

The proposal shall include—

- (i) a list of any statutory requirements of, or regulatory requirements relating to, subchapter II that the State desires the Secretary to waive, in whole or in part; and
- (ii) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

**(4) Termination of waiver**

The Secretary shall terminate a State's waiver under this section if the Secretary determines that the State—

- (A) needs assistance under section 1416(d)(2)(A)(ii) of this title and that the waiver has contributed to or caused such need for assistance;
- (B) needs intervention under section 1416(d)(2)(A)(iii) of this title or needs substantial intervention under section 1416(d)(2)(A)(iv) of this title; or
- (C) failed to appropriately implement its waiver.

**(b) Report**

Beginning 2 years after December 3, 2004, the Secretary shall include in the annual report to Congress submitted pursuant to section 3486 of this title information related to the effectiveness of waivers granted under subsection (a), including any specific recommendations for broader implementation of such waivers, in—

**(1) reducing—**

- (A) the paperwork burden on teachers, principals, administrators, and related service providers; and
- (B) noninstructional time spent by teachers in complying with subchapter II;

**(2) enhancing longer-term educational planning;****(3) improving positive outcomes for children with disabilities;****(4) promoting collaboration between IEP Team members; and****(5) ensuring satisfaction of family members.**

(Pub. L. 91-230, title VI, §609, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2661.)

## PRIOR PROVISIONS

A prior section 1408, Pub. L. 91-230, title VI, §609, as added Pub. L. 99-457, title II, §202, Oct. 8, 1986, 100 Stat. 1158, related to eligibility for financial assistance, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1409. Freely associated States**

The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this chapter to the extent that such grants continue to be available to States and local educational agencies under this chapter.

(Pub. L. 91-230, title VI, §610, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2662.)

## PRIOR PROVISIONS

A prior section 1409, Pub. L. 91-230, title VI, §610, as added Pub. L. 101-476, title I, §104, Oct. 30, 1990, 104 Stat. 1106, provided administrative provisions applicable to former subchapters III to VII of this chapter and former section 1418 of this title, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

§ 1411. Authorization; allotment; use of funds; authorization of appropriations

(a) Grants to States

(1) Purpose of grants

The Secretary shall make grants to States, outlying areas, and freely associated States, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this subchapter.

(2) Maximum amount

The maximum amount of the grant a State may receive under this section—

(A) for fiscal years 2005 and 2006 is—

(i) the number of children with disabilities in the State who are receiving special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; and

(B) for fiscal year 2007 and subsequent fiscal years is—

(i) the number of children with disabilities in the 2004–2005 school year in the State who received special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by

(iii) the rate of annual change in the sum of—

(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III).

(b) Outlying areas and freely associated States; Secretary of the Interior

(1) Outlying areas and freely associated States

(A) Funds reserved

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used—

(i) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

(ii) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal

year 2003 under this subchapter, but only if the freely associated State meets the applicable requirements of this subchapter, as well as the requirements of section 1411(b)(2)(C) of this title as such section was in effect on the day before December 3, 2004.

(B) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

(C) Definition

In this paragraph, the term “freely associated States” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(2) Secretary of the Interior

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

(c) Technical assistance

(1) In general

The Secretary may reserve not more than ½ of 1 percent of the amounts appropriated under this subchapter for each fiscal year to provide technical assistance activities authorized under section 1416(i) of this title.

(2) Maximum amount

The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is \$25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(d) Allocations to States

(1) In general

After reserving funds for technical assistance, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

(2) Special rule for use of fiscal year 1999 amount

If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

(3) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is