

public agency, shall take appropriate corrective action to ensure compliance with this subchapter, except that—

(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 1411 of this title to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this subchapter.

**(i) Data capacity and technical assistance review**

The Secretary shall—

(1) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this section is collected, analyzed, and accurately reported to the Secretary; and

(2) provide technical assistance (from funds reserved under section 1411(c) of this title), where needed, to improve the capacity of States to meet the data collection requirements.

(Pub. L. 91-230, title VI, §616, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2731.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (g), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 1416, Pub. L. 91-230, title VI, §616, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 99, related to withholding of payments and judicial review, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1416, Pub. L. 91-230, title VI, §616, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 789; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(f), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101-476, title IX, §901(b)(76), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to withholding of payments, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

**§ 1417. Administration**

**(a) Responsibilities of Secretary**

The Secretary shall—

(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to—

(A) the education of children with disabilities; and

(B) carrying out this subchapter; and

(2) provide short-term training programs and institutes.

**(b) Prohibition against Federal mandates, direction, or control**

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal

Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

**(c) Confidentiality**

The Secretary shall take appropriate action, in accordance with section 1232g of this title, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State educational agencies and local educational agencies pursuant to this subchapter.

**(d) Personnel**

The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a), under section 1418 of this title, and under part D of subchapter IV, without regard to the provisions of title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than 20 such personnel shall be employed at any time.

**(e) Model forms**

Not later than the date that the Secretary publishes final regulations under this chapter, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers—

(1) a model IEP form;

(2) a model individualized family service plan (IFSP) form;

(3) a model form of the notice of procedural safeguards described in section 1415(d) of this title; and

(4) a model form of the prior written notice described in subsections (b)(3) and (c)(1) of section 1415 of this title that is consistent with the requirements of this subchapter and is sufficient to meet such requirements.

(Pub. L. 91-230, title VI, §617, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2737.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (d), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (e), is Pub. L. 108-446, Dec. 3, 2004, 118 Stat. 2647. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 1417, Pub. L. 91-230, title VI, §617, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 100, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1417, Pub. L. 91-230, title VI, §617, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(g), Nov. 7, 1988,

102 Stat. 3295; Pub. L. 101-476, title IX, §901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105-17.

### § 1418. Program information

#### (a) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:

(1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:

(i) Receiving a free appropriate public education.

(ii) Participating in regular education.

(iii) In separate classes, separate schools or facilities, or public or private residential facilities.

(iv) For each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.

(v)(I) Removed to an interim alternative educational setting under section 1415(k)(1) of this title.

(II) The acts or items precipitating those removals.

(III) The number of children with disabilities who are subject to long-term suspensions or expulsions.

(B) The number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services.

(C) The number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.

(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.

(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.

(F) The number of due process complaints filed under section 1415 of this title and the number of hearings conducted.

(G) The number of hearings requested under section 1415(k) of this title and the number of changes in placements ordered as a result of those hearings.

(H) The number of mediations held and the number of settlement agreements reached through such mediations.

(2) The number and percentage of infants and toddlers, by race, and ethnicity, who are

at risk of having substantial developmental delays (as defined in section 1432 of this title), and who are receiving early intervention services under subchapter III.

(3) Any other information that may be required by the Secretary.

#### (b) Data reporting

##### (1) Protection of identifiable data

The data described in subsection (a) shall be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.

##### (2) Sampling

The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

#### (c) Technical assistance

The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this chapter.

#### (d) Disproportionality

##### (1) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title;

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

##### (2) Review and revision of policies, practices, and procedures

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter;

(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 1413(f) of this title to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and