

the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2016, and the Consolidated Appropriations Act, 2016, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

#### SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-235, div. G, title III, Dec. 16, 2014, 128 Stat. 2493.

### § 6303b. Direct student services

#### (a) State reservation

##### (1) In general

###### (A) States

Each State educational agency, after meaningful consultation with geographically diverse local educational agencies described in subparagraph (B), may reserve not more than 3 percent of the amount the State educational agency receives under subpart 2 of part A for each fiscal year to carry out this section.

###### (B) Consultation

A State educational agency shall consult under subparagraph (A) with local educational agencies that include—

- (i) suburban, rural, and urban local educational agencies;
- (ii) local educational agencies serving a high percentage of schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; and
- (iii) local educational agencies serving a high percentage of schools implementing targeted support and improvement plans under section 6311(d)(2) of this title.

##### (2) Program administration

Of the funds reserved under paragraph (1)(A), the State educational agency may use not more than 1 percent to administer the program described in this section.

#### (b) Awards

##### (1) In general

From the amount reserved under subsection (a) by a State educational agency, the State educational agency shall award grants to geographically diverse local educational agencies described in subsection (a)(1)(B)(i).

##### (2) Priority

In making such awards, the State educational agency shall prioritize awards to local educational agencies serving the highest percentage of schools, as compared to other local educational agencies in the State—

- (A) identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title; or
- (B) implementing targeted support and improvement plans under section 6311(d)(2) of this title.

##### (c) Local use of funds

A local educational agency receiving an award under this section—

- (1) may use not more than 1 percent of its award for outreach and communication to par-

ents about available direct student services described in paragraph (3) in the local educational agency and State;

(2) may use not more than 2 percent of its award for administrative costs related to such direct student services;

(3) shall use the remainder of the award to pay the costs associated with one or more of the following direct student services—

(A) enrollment and participation in academic courses not otherwise available at a student's school, including—

- (i) advanced courses; and
- (ii) career and technical education coursework that—

(I) is aligned with the challenging State academic standards; and

(II) leads to industry-recognized credentials that meet the quality criteria established by the State under section 3153(a) of title 29;

(B) credit recovery and academic acceleration courses that lead to a regular high school diploma;

(C) activities that assist students in successfully completing postsecondary level instruction and examinations that are accepted for credit at institutions of higher education (including Advanced Placement and International Baccalaureate courses), which may include reimbursing low-income students to cover part or all of the costs of fees for such examinations;

(D) components of a personalized learning approach, which may include high-quality academic tutoring; and

(E) in the case of a local educational agency that does not reserve funds under section 6311(d)(1)(D)(v) of this title, transportation to allow a student enrolled in a school identified for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title to transfer to another public school (which may include a charter school) that has not been identified by the State under such section; and

(4) in paying the costs associated with the direct student services described in paragraph (3), shall—

(A) first, pay such costs for students who are enrolled in schools identified by the State for comprehensive support and improvement under section 6311(c)(4)(D)(i) of this title;

(B) second, pay such costs for low-achieving students who are enrolled in schools implementing targeted support and improvement plans under section 6311(d)(2) of this title; and

(C) with any remaining funds, pay such costs for other low-achieving students served by the local educational agency.

##### (d) Application

A local educational agency desiring to receive an award under subsection (b) shall submit an application to the State educational agency at such time and in such manner as the State educational agency shall require. At a minimum, each application shall describe how the local educational agency will—

(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child's education;

(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

(3) in the case of a local educational agency offering public school choice under this section, ensure sufficient availability of seats in the public schools the local educational agency will make available for public school choice options;

(4) prioritize services to students who are lowest-achieving;

(5) select providers of direct student services, which may include one or more of—

(A) the local educational agency or other local educational agencies;

(B) community colleges or other institutions of higher education;

(C) non-public entities;

(D) community-based organizations; or

(E) in the case of high-quality academic tutoring, a variety of providers of such tutoring that are selected and approved by the State and appear on the State's list of such providers required under subsection (e)(2);

(6) monitor the provision of direct student services; and

(7) publicly report the results of direct student service providers in improving relevant student outcomes in a manner that is accessible to parents.

#### (e) Providers and schools

A State educational agency that reserves an amount under subsection (a) shall—

(1) ensure that each local educational agency that receives an award under this section and intends to provide public school choice under subsection (c)(3)(E) can provide a sufficient number of options to provide a meaningful choice for parents;

(2) compile and maintain an updated list of State-approved high-quality academic tutoring providers that—

(A) is developed using a fair negotiation and rigorous selection and approval process;

(B) provides parents with meaningful choices;

(C) offers a range of tutoring models, including online and on campus; and

(D) includes only providers that—

(i) have a demonstrated record of success in increasing students' academic achievement;

(ii) comply with all applicable Federal, State, and local health, safety, and civil rights laws; and

(iii) provide instruction and content that is secular, neutral, and non-ideological;

(3) ensure that each local educational agency receiving an award is able to provide an adequate number of high-quality academic tutoring options to ensure parents have a meaningful choice of services;

(4) develop and implement procedures for monitoring the quality of services provided by direct student service providers; and

(5) establish and implement clear criteria describing the course of action for direct student service providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval under paragraph (2).

(Pub. L. 89-10, title I, §1003A, as added Pub. L. 114-95, title I, §1004, Dec. 10, 2015, 129 Stat. 1817.)

#### EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

### § 6304. State administration

#### (a) In general

Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this subchapter, each State may reserve the greater of—

(1) 1 percent of the amounts received under such parts; or

(2) \$400,000 (\$50,000 in the case of each outlying area).

#### (b) Exception

If the sum of the amounts appropriated for parts A, C, and D of this subchapter is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if \$14,000,000,000 were allocated among the States for parts A, C, and D of this subchapter.

(Pub. L. 89-10, title I, §1004, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1444.)

#### PRIOR PROVISIONS

A prior section 1004 of Pub. L. 89-10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

### PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

#### SUBPART 1—BASIC PROGRAM REQUIREMENTS

### § 6311. State plans

#### (a) Filing for grants

##### (1) In general

For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is—

(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents; and

(B) is coordinated with other programs under this chapter, the Individuals with Dis-