

**(2) Other members**

The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

**(c) Meetings**

The council shall meet, at a minimum, on a quarterly basis, and in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

**(d) Management authority**

Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

**(e) Functions of council****(1) Duties**

The council shall—

(A) advise and assist the lead agency designated or established under section 1435(a)(10) of this title in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the inter-agency agreements;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

**(2) Authorized activity**

The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

**(f) Conflict of interest**

No member of the council shall cast a vote on any matter that is likely to provide a direct fi-

ancial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Pub. L. 91-230, title VI, §641, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2758.)

## PRIOR PROVISIONS

A prior section 1441, Pub. L. 91-230, title VI, §641, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 116, related to State interagency coordinating councils, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1441, Pub. L. 91-230, title VI, §641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95-49, §4, June 17, 1977, 91 Stat. 230; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99-457, title III, §312, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 100-630, title I, §105(b), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title V, §501, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102-421, title II, §203, Oct. 16, 1992, 106 Stat. 2165, related to grants, contracts, and cooperative agreements for research and related activities, attention deficit disorder centers, and model demonstration programs, prior to repeal by Pub. L. 105-17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

**§ 1442. Federal administration**

Sections 1416, 1417, and 1418 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 1435(a)(10) of this title;

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this subchapter; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(Pub. L. 91-230, title VI, §642, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2760.)

## PRIOR PROVISIONS

A prior section 1442, Pub. L. 91-230, title VI, §642, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 118, related to Federal administration, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1442, Pub. L. 91-230, title VI, §642, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 101-476, title V, §502, Oct. 30, 1990, 104 Stat. 1138; Pub. L. 102-119, §25(a)(14), Oct. 7, 1991, 105 Stat. 606, related to research and demonstration projects in physical education and recreation for children with disabilities, prior to repeal by Pub. L. 105-17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

**§ 1443. Allocation of funds****(a) Reservation of funds for outlying areas****(1) In general**

From the sums appropriated to carry out this subchapter for any fiscal year, the Secretary may reserve not more than 1 percent

for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs for assistance under this subchapter.

**(2) Consolidation of funds**

The provisions of Public Law 95-134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this subchapter.

**(b) Payments to Indians**

**(1) In general**

The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 5304 of title 25), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for such fiscal year.

**(2) Allocation**

For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

**(3) Information**

To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

**(4) Use of funds**

The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. Such activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

**(5) Reports**

To be eligible to receive a payment under paragraph (2), a tribe, tribal organization, or

consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(h)(3)(E) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

**(6) Prohibited uses of funds**

None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

**(c) State allotments**

**(1) In general**

Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

**(2) Minimum allotments**

Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

- (A)  $\frac{1}{2}$  of 1 percent of the remaining amount described in paragraph (1); or
- (B) \$500,000.

**(3) Ratable reduction**

**(A) In general**

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

**(B) Additional funds**

If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.

**(4) Definitions**

In this subsection—

- (A) the terms “infants” and “toddlers” mean children under 3 years of age; and
- (B) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(d) Reallotment of funds**

If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot,

among the remaining States, amounts from such State in accordance with such subsection.

**(e) Reservation for State incentive grants**

**(1) In general**

For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 1444 of this title exceeds \$460,000,000, the Secretary shall reserve 15 percent of such appropriated amount to provide grants to States that are carrying out the policy described in section 1435(c) of this title in order to facilitate the implementation of such policy.

**(2) Amount of grant**

**(A) In general**

Notwithstanding paragraphs (2) and (3) of subsection (c), the Secretary shall provide a grant to each State under paragraph (1) in an amount that bears the same ratio to the amount reserved under such paragraph as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under such paragraph.

**(B) Maximum amount**

No State shall receive a grant under paragraph (1) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under such paragraph for the fiscal year.

**(3) Carryover of amounts**

**(A) First succeeding fiscal year**

Pursuant to section 1225(b) of this title, amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which such amounts were appropriated shall remain available for obligation and expenditure during such first succeeding fiscal year.

**(B) Second succeeding fiscal year**

Amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which such amounts were appropriated shall be returned to the Secretary and used to make grants to States under section 1433 of this title (from their allotments under this section) during such second succeeding fiscal year.

(Pub. L. 91-230, title VI, §643, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2760.)

REFERENCES IN TEXT

Public Law 95-134, referred to in subsec. (a)(2), is Pub. L. 95-134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95-134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1443, Pub. L. 91-230, title VI, §643, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 118, related to allocation of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

Another prior section 1443, Pub. L. 91-230, title VI, §643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99-457, title III, §313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100-630, title I, §105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title IX, §901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects, prior to repeal by Pub. L. 101-476, title V, §§503, 1001, Oct. 30, 1990, 104 Stat. 1138, 1151, effective Oct. 1, 1990.

**§ 1444. Authorization of appropriations**

For the purpose of carrying out this subchapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91-230, title VI, §644, as added Pub. L. 108-446, title I, §101, Dec. 3, 2004, 118 Stat. 2763.)

PRIOR PROVISIONS

A prior section 1444, Pub. L. 91-230, title VI, §644, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 121; amended Pub. L. 106-402, title IV, §401(b)(1), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108-173, title IX, §900(e)(6)(C), Dec. 8, 2003, 117 Stat. 2373, which related to the Federal Interagency Coordinating Council, was repealed, as such section was in effect on the day before Dec. 3, 2004, by Pub. L. 108-446, title III, §304, Dec. 3, 2004, 118 Stat. 2804.

Another prior section 1444, Pub. L. 91-230, title VI, §643, formerly §644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93-380, title VI, §619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95-49, §5, June 17, 1977, 91 Stat. 231; Pub. L. 98-199, §12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99-457, title III, §314, Oct. 8, 1986, 100 Stat. 1171; renumbered §643 and amended Pub. L. 101-476, title V, §§503, 504, title IX, §901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, authorized appropriations, prior to repeal by Pub. L. 105-17, title II, §203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 1445, Pub. L. 91-230, title VI, §645, as added Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 123, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108-446.

SUBCHAPTER IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

**§ 1450. Findings**

Congress finds the following:

(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling those children to lead productive and independent adult lives.

(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities.

(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.