

(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 6825 of this title (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

(ii) shall reallocate any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

**(D) Special rule for Puerto Rico**

The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

**(3) Use of data for determinations**

In making State allotments under paragraph (2) for each fiscal year, the Secretary shall—

(A) determine the number of English learners in a State and in all States, using the most accurate, up-to-date data, which shall be—

(i) data available from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates;

(ii) the number of students being assessed for English language proficiency, based on the State's English language proficiency assessment under section 6311(b)(2)(G) of this title, which may be multiyear estimates; or

(iii) a combination of data available under clauses (i) and (ii); and

(B) determine the number of immigrant children and youth in the State and in all States based only on data available from the American Community Survey conducted by the Department of Commerce, which may be multiyear estimates.

(Pub. L. 89-10, title III, §3111, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1691; amended Pub. L. 114-95, title III, §3003(b), Dec. 10, 2015, 129 Stat. 1954.)

**PRIOR PROVISIONS**

A prior section 3111 of Pub. L. 89-10 was classified to section 6811 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

**AMENDMENTS**

2015—Subsec. (b)(2). Pub. L. 114-95, §3003(b)(1)(A), added subpars. (A) to (E) and struck out former subpars. (A) to (D) which read as follows:

“(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

“(B) Planning, evaluation, administration, and inter-agency coordination related to the subgrants referred to in paragraph (1).

“(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

“(i) identifying and implementing language instruction educational programs and curricula that

are based on scientifically based research on teaching limited English proficient children;

“(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

“(iii) identifying or developing, and implementing, measures of English proficiency; and

“(iv) promoting parental and community participation in programs that serve limited English proficient children.

“(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 6842 of this title.”

Subsec. (b)(3). Pub. L. 114-95, §3003(b)(1)(B), substituted “Direct administrative” for “Administrative” in heading and substituted “50 percent” for “60 percent” and inserted “direct” before “administrative costs” in text.

Subsec. (c)(1). Pub. L. 114-95, §3003(b)(2)(A)(i), substituted “section 6801” for “section 6801(a)” in introductory provisions.

Subsec. (c)(1)(B). Pub. L. 114-95, §3003(b)(2)(A)(ii), inserted “and” after semicolon at end.

Subsec. (c)(1)(C). Pub. L. 114-95, §3003(b)(2)(A)(iii), added subpar. (C) and struck out former subpar. (C) which read as follows: “6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than \$2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title; and”.

Subsec. (c)(1)(D). Pub. L. 114-95, §3003(b)(2)(A)(iv), struck out subpar. (D) which read as follows: “such sums as may be necessary to make continuation awards under paragraph (2).”

Subsec. (c)(2). Pub. L. 114-95, §3003(b)(2)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which related to continuation awards.

Subsec. (c)(2)(A). Pub. L. 114-95, §3003(b)(2)(D)(i), substituted “section 6801” for “section 6801(a)” in introductory provisions.

Subsec. (c)(2)(A)(i). Pub. L. 114-95, §3003(b)(2)(D)(ii), substituted “English learners in the State bears to the number of English learners in all States, as determined in accordance with paragraph (3)(A); and” for “limited English proficient children in the State bears to the number of such children in all States; and”.

Subsec. (c)(2)(A)(ii). Pub. L. 114-95, §3003(b)(2)(D)(iii), inserted “, as determined in accordance with paragraph (3)(B)” before period at end.

Subsec. (c)(3). Pub. L. 114-95, §3003(b)(2)(E), added par. (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 114-95, §3003(b)(2)(B), struck out par. (4) which related to use of data for determinations.

**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.

**§ 6822. Native American and Alaska Native children in school**

**(a) Eligible entities**

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

- (1) An Indian tribe.
- (2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Education, or a consortium of such schools.

(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Education, in consortium with another such school or a tribal or community organization.

(6) An elementary school or secondary school operated by the Bureau of Indian Education and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Education or a tribal or community organization.

**(b) Submission of applications for assistance**

Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a), and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

**(c) Special rule**

An eligible entity described in subsection (a) that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 6824 of this title.

(Pub. L. 89-10, title III, §3112, as added Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1694; amended Pub. L. 114-95, title III, §3003(c), Dec. 10, 2015, 129 Stat. 1956.)

PRIOR PROVISIONS

A prior section 3112 of Pub. L. 89-10 was classified to section 6812 of this title, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(4) to (6). Pub. L. 114-95 substituted “Bureau of Indian Education” for “Bureau of Indian Affairs” wherever appearing.

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.

**§ 6823. State and specially qualified agency plans**

**(a) Plan required**

Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time and in such manner as the Secretary may require.

**(b) Contents**

Each plan submitted under subsection (a) shall—

- (1) describe the process that the agency will use in awarding subgrants to eligible entities under section 6824(d)(1) of this title;

(2) describe how the agency will establish and implement, with timely and meaningful consultation with local educational agencies representing the geographic diversity of the State, standardized, statewide entrance and exit procedures, including an assurance that all students who may be English learners are assessed for such status within 30 days of enrollment in a school in the State;

(3) provide an assurance that—

(A) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 6311(b)(2)(B)(ix) of this title regarding assessment of English learners in English;

(B) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all English learners participating in a program funded under this subpart, consistent with section 6311(b)(2)(G) of this title;

(C) in awarding subgrants under section 6824 of this title, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

(D) subgrants to eligible entities under section 6824(d)(1) of this title will be of sufficient size and scope to allow such entities to carry out effective language instruction educational programs for English learners;

(E) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient’s capacity to continue to offer effective language instruction educational programs that assist English learners in meeting challenging State academic standards;

(F) the agency will monitor each eligible entity receiving a subgrant under this subpart for compliance with applicable Federal fiscal requirements; and

(G) the plan has been developed in consultation with local educational agencies, teachers, administrators of programs implemented under this subpart, parents of English learners, and other relevant stakeholders;

(4) describe how the agency will coordinate its programs and activities under this subpart with other programs and activities under this chapter and other Acts, as appropriate;

(5) describe how each eligible entity will be given the flexibility to teach English learners—

(A) using a high-quality, effective language instruction curriculum for teaching English learners; and

(B) in the manner the eligible entity determines to be the most effective;

(6) describe how the agency will assist eligible entities in meeting—

(A) the State-designed long-term goals established under section 6311(c)(4)(A)(ii) of this title, including measurements of interim progress towards meeting such goals, based on the State’s English language proficiency assessment under section 6311(b)(2)(G) of this title; and