

ceives funds from the Attorney General under section 10404(e) of this title, except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

**(c) Role of courts**

In the development of the grant application, the States and units of local governments shall take into consideration the needs of the judicial branch in strengthening the juvenile justice system and specifically seek the advice of the chief of the highest court of the State and where appropriate, the chief judge of the local court, with respect to the application.

**(d) Graduated sanctions**

A system of graduated sanctions, which may be discretionary as provided in subsection (e), shall ensure, at a minimum, that—

- (1) sanctions are imposed on a juvenile offender for each delinquent offense;
- (2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;
- (3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and
- (4) appropriate consideration is given to public safety and victims of crime.

**(e) Discretionary use of sanctions**

**(1) Voluntary participation**

A State or unit of local government may be eligible to receive a grant under this subchapter if—

- (A) its system of graduated sanctions is discretionary; and
- (B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

**(2) Reporting requirement if graduated sanctions not used**

**(A) Juvenile courts**

A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

- (i) which has not implemented a system of graduated sanctions, to submit an annual report that explains why such court did not implement graduated sanctions; and
- (ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

**(B) Units of local government**

Each unit of local government, other than a specially qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

**(C) States**

Each State and specially qualified unit that has 1 or more juvenile courts that use

a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

**(f) Definitions**

In this section:

**(1) Discretionary**

The term “discretionary” means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

**(2) Sanctions**

The term “sanctions” means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

(Pub. L. 90-351, title I, §1802, as added Pub. L. 107-273, div. C, title II, §12102(a), Nov. 2, 2002, 116 Stat. 1861; amended Pub. L. 109-162, title XI, §1168(a), formerly §1168, Jan. 5, 2006, 119 Stat. 3122, renumbered §1168(a), Pub. L. 109-271, §8(n)(5)(A), Aug. 12, 2006, 120 Stat. 768.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 3796ee-2 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**PRIOR PROVISIONS**

A prior section 1802 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title II, §20201(a)(3), Sept. 13, 1994, 108 Stat. 1820, and classified to former section 3796ee-1 of Title 42, The Public Health and Welfare, related to State applications for grants, prior to the general amendment of part R of title I of Pub. L. 90-351 by Pub. L. 107-273.

**AMENDMENTS**

2006—Subsecs. (a)(1)(B), (b)(1)(A)(ii). Pub. L. 109-162, §1168(a), formerly §1168, as renumbered by Pub. L. 109-271, inserted “, including the extent to which evidence-based approaches are utilized” after “subchapter”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109-162, title XI, §1168(b), as added by Pub. L. 109-271, §8(n)(5)(B), Aug. 12, 2006, 120 Stat. 768, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2006.”

**§ 10404. Allocation and distribution of funds**

**(a) State allocation**

**(1) In general**

In accordance with regulations promulgated pursuant to this subchapter and except as provided in paragraph (3), the Attorney General shall allocate—

- (A) 0.50 percent for each State; and
- (B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio

to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

**(2) Prohibition**

No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

**(b) Local distribution**

**(1) In general**

Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 10401 of this title, not less than 75 percent of such amounts received.

**(2) Waiver**

If a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

(A) the State's juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this subchapter (the "State percentage") is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State's calculation of expenditures under subparagraph (A), the State's application for waiver under this paragraph, and the State's proposed uses of funds.

**(3) Allocation**

In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

(A) the sum of—

(i) the product of—

(I) three-quarters; multiplied by

(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

(ii) the product of—

(I) one-quarter; multiplied by

(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

**(4) Expenditures**

The allocation any unit of local government shall receive under paragraph (3) for a pay-

ment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

**(5) Reallocation**

The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

**(c) Unavailability of data for units of local government**

If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

**(d) Local government with allocations less than \$10,000**

If under this section a unit of local government is allocated less than \$10,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this subchapter.

**(e) Direct grants to specially qualified units**

**(1) In general**

If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 10403 of this title.

**(2) Award basis**

In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

(Pub. L. 90-351, title I, §1803, as added Pub. L. 107-273, div. C, title II, §12102(a), Nov. 2, 2002, 116 Stat. 1863.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 3796ee-3 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 1803 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title II, §20201(a)(3), Sept. 13, 1994, 108 Stat. 1820, and classified to former section 3796ee-2 of Title 42, The Public Health and Welfare, related to

review of State applications, prior to the general amendment of part R of title I of Pub. L. 90-351 by Pub. L. 107-273.

### § 10405. Guidelines

#### (a) In general

The Attorney General shall issue guidelines establishing procedures under which a State or specifically<sup>1</sup> qualified unit of local government that receives funds under section 10404 of this title is required to provide notice to the Attorney General regarding the proposed use of funds made available under this subchapter.

#### (b) Advisory board

##### (1) In general

The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to recommend a coordinated enforcement plan for the use of such funds.

##### (2) Membership

The board shall include representation from, if appropriate—

- (A) the State or local police department;
- (B) the local sheriff's department;
- (C) the State or local prosecutor's office;
- (D) the State or local juvenile court;
- (E) the State or local probation office;
- (F) the State or local educational agency;
- (G) a State or local social service agency;
- (H) a nonprofit, nongovernmental victim advocacy organization; and
- (I) a nonprofit, religious, or community group.

(Pub. L. 90-351, title I, §1804, as added Pub. L. 107-273, div. C, title II, §12102(a), Nov. 2, 2002, 116 Stat. 1865.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 3796ee-4 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

##### PRIOR PROVISIONS

A prior section 1804 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title II, §20201(a)(3), Sept. 13, 1994, 108 Stat. 1820, and classified to former section 3796ee-3 of Title 42, The Public Health and Welfare, related to applications by local governments, prior to the general amendment of part R of title I of Pub. L. 90-351 by Pub. L. 107-273.

### § 10406. Payment requirements

#### (a) Timing of payments

The Attorney General shall pay to each State or specifically<sup>1</sup> qualified unit of local government that receives funds under section 10404 of this title that has submitted an application under this subchapter the amount awarded to such State or unit of local government not later than the later of—

- (1) the date that is 180 days after the date that the amount is available; or

(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

#### (b) Repayment of unexpended amounts

##### (1) Repayment required

From amounts awarded under this subchapter, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month period beginning on the date of the award, any amount that is not expended by such State or unit.

##### (2) Extension

The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

##### (3) Penalty for failure to repay

If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

##### (4) Deposit of amounts repaid

Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

#### (c) Administrative costs

A State or unit of local government that receives funds under this subchapter may use not more than 5 percent of such funds to pay for administrative costs.

#### (d) Nonsupplanting requirement

Funds made available under this subchapter to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this subchapter, be made available from State or local sources, as the case may be.

#### (e) Matching funds

##### (1) In general

The Federal share of a grant received under this subchapter may not exceed 90 percent of the total program costs.

##### (2) Construction of facilities

Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this subchapter may not exceed 50 percent of approved cost.

(Pub. L. 90-351, title I, §1805, as added Pub. L. 107-273, div. C, title II, §12102(a), Nov. 2, 2002, 116 Stat. 1865.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 3796ee-5 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

##### PRIOR PROVISIONS

A prior section 1805 of title I of Pub. L. 90-351, as added Pub. L. 103-322, title II, §20201(a)(3), Sept. 13, 1994, 108 Stat. 1821, and classified to former section 3796ee-4

<sup>1</sup> So in original. Probably should be "specially".

<sup>1</sup> So in original. Probably should be "specially".