

amendment, text read as follows: “The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.”

1999—Subsec. (b)(3). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

1997—Subsec. (c)(6)(C). Pub. L. 105-33 substituted “subparagraph (B)” for “subparagraph (A)”.

1996—Subsec. (a)(1). Pub. L. 104-193, § 613(1)(A), made technical amendment to heading, inserted “and” before “the Commonwealth of the Northern Mariana Islands”, and struck out “, and the Trust Territory of the Pacific Islands” before “to be allotted in accordance”.

Subsec. (a)(2). Pub. L. 104-193, § 613(1)(B), substituted “less than 1 percent, and not more than 2 percent,” for “more than 3 percent”.

Subsec. (c)(5). Pub. L. 104-193, § 613(2)(A), substituted “activities carried out” for “activities carried out”.

Subsec. (c)(6). Pub. L. 104-193, § 613(2)(B), added par. (6).

Subsec. (e)(4). Pub. L. 104-193, § 613(3), added par. (4). 1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

### § 9858n. Definitions

As used in this subchapter:

#### (1) Caregiver

The term “caregiver” means an individual who provides a service directly to an eligible child on a person-to-person basis.

#### (2) Child care certificate

The term “child care certificate” means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

#### (3) Child with a disability

The term “child with a disability” means—

(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(C) a child who is less than 13 years of age and who is eligible for services under section 794 of title 29; and

(D) a child with a disability, as defined by the State involved.

#### (4) Eligible child

The term “eligible child” means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed 85 percent of the State median income for a family of the same size, and whose family assets do not exceed \$1,000,000 (as certified by a member of such family); and

(C) who—

(i) resides with a parent or parents who are working or attending a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

#### (5) English learner

The term “English learner” means an individual who is an English learner, as defined in section 7801 of title 20, or who is limited English proficient, as defined in section 9832 of this title.

#### (6) Eligible child care provider

The term “eligible child care provider” means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed, regulated, or registered under State law as described in section 9858c(c)(2)(F) of this title; and

(ii) satisfies the State and local requirements, including those referred to in section 9858c(c)(2)(I) of this title;

applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

#### (7) Family child care provider

The term “family child care provider” means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

#### (8) Indian tribe

The term “Indian tribe” has the meaning given it in section 5304(e) of title 25.

#### (9) Lead agency

The term “lead agency” means the agency designated or established under section 9858b(a) of this title.

#### (10) Parent

The term “parent” includes a legal guardian, foster parent, or other person standing in loco parentis.

**(11) Scientifically valid research**

The term “scientifically valid research” includes applied research, basic research, and field-initiated research, for which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

**(12) Secretary**

The term “Secretary” means the Secretary of Health and Human Services unless the context specifies otherwise.

**(13) Sliding fee scale**

The term “sliding fee scale” means a system of cost sharing by a family based on income and size of the family.

**(14) State**

The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(15) Tribal organization****(A) In general**

The term “tribal organization” has the meaning given it in section 5304(l) of title 25.

**(B) Other organizations**

Such term includes a Native Hawaiian Organization, as defined in section 4909(4)<sup>1</sup> of title 20 and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

(Pub. L. 97–35, title VI, §658P, as added Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–248; amended Pub. L. 102–401, §3, Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102–586, §8(c), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 103–171, §8, Dec. 2, 1993, 107 Stat. 1994; Pub. L. 104–193, title VI, §614, Aug. 22, 1996, 110 Stat. 2287; Pub. L. 105–33, title V, §5602(5), Aug. 5, 1997, 111 Stat. 646; Pub. L. 113–186, §10, Nov. 19, 2014, 128 Stat. 2000; Pub. L. 114–95, title IX, §9215(p)(2), Dec. 10, 2015, 129 Stat. 2170.)

## REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

Section 4909 of title 20, referred to in par. (15)(B), was repealed by Pub. L. 103–382, title III, §363, Oct. 20, 1994, 108 Stat. 3975.

## AMENDMENTS

2015—Par. (5). Pub. L. 114–95 substituted “an individual who is an English learner, as defined in section 7801 of title 20, or who is limited English proficient, as defined in section 9832 of this title” for “an individual who is limited English proficient, as defined in section 7801 of title 20 or section 9832 of this title”.

2014—Pars. (3), (4). Pub. L. 113–186, §10(1), added pars. (3) and (4) and struck out former par. (4) which defined “eligible child”.

Par. (5). Pub. L. 113–186, §10(3), added par. (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 113–186, §10(2), (4), redesignated par. (5) as (6) and substituted “9858c(c)(2)(F)” for “9858c(c)(2)(E)” in subpar. (A)(i) and “9858c(c)(2)(I)” for “9858c(c)(2)(F)” in subpar. (A)(ii). Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 113–186, §10(2), redesignated pars. (6) and (7) as (7) and (8), respectively. Former pars. (7) and (8) redesignated (8) and (9), respectively.

Par. (9). Pub. L. 113–186, §10(2), (5), redesignated par. (8) as (9) and substituted “designated or established under section 9858b(a)” for “designated under section 9858(a)”. Former par. (9) redesignated (10).

Par. (10). Pub. L. 113–186, §10(2), (6), redesignated par. (9) as (10) and inserted “, foster parent,” after “guardian”.

Pars. (11) to (15). Pub. L. 113–186, §10(7), (8), added par. (11) and redesignated former pars. (11) to (14) as (12) to (15), respectively.

1997—Par. (13). Pub. L. 105–33 substituted “and” for “or” after “American Samoa”.

1996—Par. (2). Pub. L. 104–193, §614(1), in first sentence, inserted “or as a deposit for child care services if such a deposit is required of other children being cared for by the provider” after “payment for child care services”.

Par. (3). Pub. L. 104–193, §614(2), struck out heading and text of par. (3). Text read as follows: “The term ‘elementary school’ means a day or residential school that provides elementary education, as determined under State law.”

Par. (4)(B). Pub. L. 104–193, §614(3), substituted “85 percent” for “75 percent”.

Par. (5)(B). Pub. L. 104–193, §614(4), inserted “great grandchild, sibling (if such provider lives in a separate residence),” after “grandchild,” struck out “is registered and” after “such provider”, and substituted “any applicable requirements” for “any State requirements”.

Par. (10). Pub. L. 104–193, §614(5), struck out heading and text of par. (10). Text read as follows: “The term ‘secondary school’ means a day or residential school which provides secondary education, as determined under State law.”

Par. (13). Pub. L. 104–193, §614(6), inserted “or” after “Samoa,” and struck out “, and the Trust Territory of the Pacific Islands” after “Northern Mariana Islands”.

Par. (14). Pub. L. 104–193, §614(7), designated existing text as subpar. (A), inserted heading, and added subpar. (B).

1993—Pars. (7), (14). Pub. L. 103–171 made technical correction to directory language of Pub. L. 102–586, §8(c)(2). See 1992 Amendment note below.

1992—Pub. L. 102–401, §3(a), and Pub. L. 102–586, §8(c)(1), made identical technical corrections to directory language of Pub. L. 101–508, §5082(2), which added this section.

Par. (7). Pub. L. 102–586, §8(c)(2)(A), as amended by Pub. L. 103–171, which directed the amendment of par. (7) by substituting “section 5304(e) of title 25” for “section 5304(b) of title 25”, could not be executed because the words “section 5304(b) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102–401, §3(b)(1). See below.

Pub. L. 102–401, §3(b)(1), substituted “section 5304(e) of title 25” for “section 5304(b) of title 25”.

Par. (14). Pub. L. 102–586, §8(c)(2)(B), as amended by Pub. L. 103–171, which directed the amendment of par. (14) by substituting “section 5304(l) of title 25” for “section 5304(c) of title 25”, could not be executed because the words “section 5304(c) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102–401, §3(b)(2). See below.

Pub. L. 102–401, §3(b)(2), substituted “section 5304(l) of title 25” for “section 5304(c) of title 25”.

## 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 Title 20, Education.

<sup>1</sup> See References in Text note below.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as a note under section 9858 of this title.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102-586 effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102-586, set out as a note under section 9858h of this title.

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

**§ 9858o. Parental rights and responsibilities**

**(a) In general**

Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

**(b) Parental rights to use child care certificates**

Nothing in this subchapter shall be construed in a manner—

- (1) to favor or promote the use of grants and contracts for the receipt of child care services under this subchapter over the use of child care certificates; or
- (2) to disfavor or discourage the use of such certificates for the purchase of child care services, including those services provided by private or nonprofit entities, such as faith-based providers.

(Pub. L. 97-35, title VI, § 658Q, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 113-186, § 11, Nov. 19, 2014, 128 Stat. 2001.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-186 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858p. Severability**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

(Pub. L. 97-35, title VI, § 658R, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, § 3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

**§ 9858q. Miscellaneous provisions**

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.

(Pub. L. 97-35, title VI, § 658S, as added Pub. L. 102-586, § 8(b), Nov. 4, 1992, 106 Stat. 5035; amended Pub. L. 103-171, § 8, Dec. 2, 1993, 107 Stat. 1994.)

AMENDMENTS

1993—Pub. L. 103-171 made technical correction to directory language of Pub. L. 102-586, § 8(b), which added this section.

EFFECTIVE DATE

Section effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102-586, set out as an Effective Date of 1992 Amendment note under section 9858h of this title.

**§ 9858r. Studies on waiting lists**

**(a) Study**

The Comptroller General of the United States shall conduct studies to determine, for each State, the number of families that—

- (1) are eligible to receive assistance under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.];
- (2) have applied for the assistance, identified by the type of assistance requested; and
- (3) have been placed on a waiting list for the assistance.

**(b) Report**

The Comptroller General shall prepare a report containing the results of each study and shall submit the report to the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives—

- (1) not later than 2 years after November 19, 2014; and
- (2) every 2 years thereafter.

**(c) Definition**

In this section, the term “State” has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(Pub. L. 113-186, § 12, Nov. 19, 2014, 128 Stat. 2001.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(1), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-236, which is classified generally to this subchapter. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

CODIFICATION

Section was enacted as part of the Child Care and Development Block Grant Act of 2014, and not as part of