

“(3) A description of the conditions of the facility or facilities at each school, including the level of compliance with the standards described in paragraph (2), any existing or projected facility deficiencies or inadequate conditions at each facility, and whether any of the facilities listed are temporary structures.

“(4) An investment strategy planned for each school to correct deficiencies identified in paragraph (3), including a description of each project to correct such deficiencies, cost estimates, and timelines to complete each project.

“(5) A description of requirements for new schools to be constructed over the next 10 years as a result of changes to the population of military personnel.

“(C) USE OF REPORT AS MASTER PLAN FOR REPAIR, UPGRADE, AND CONSTRUCTION OF SCHOOLS.—The Secretary shall use the report required under subsection (a) as a master plan for the repair, upgrade, and construction of schools in the Department of Defense system that support dependents of members of the Armed Forces and civilian employees of the Department of Defense.”

PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE  
DEPENDENTS' SCHOOLS

Pub. L. 104-106, div. A, title III, §355, Feb. 10, 1996, 110 Stat. 269, provided that the Secretary of Defense could conduct a pilot program to evaluate the feasibility of using private contractors to operate overseas schools of the defense dependents' education system established under this section, subject to certain conditions and providing that no later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary would submit to Congress a report on the results of the program and a recommendation of the extent to which other schools of the defense dependents' education system should be operated by private contractors.

**§ 922. Administration of defense dependents' education system**

**(a) Operation; Director**

The defense dependents' education system is operated through the field activity of the Department of Defense known as the Department of Defense Education Activity. That activity is headed by a Director, who is a civilian and is selected by the Secretary of Defense. The Director reports to an Assistant Secretary of Defense designated by the Secretary of Defense for purposes of this chapter.

**(b) Implementation of program functions of Secretary of Defense through Director**

Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this chapter through the Director.

**(c) Functions of Director**

The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.), for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 928 of this title, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense designated under subsection (a).

**(d) Establishment of regional or area offices; reports to Congress on reorganizations; authorized number of civilian employees**

(1) The Director shall establish appropriate regional or area offices in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Whenever the Department of Defense Education Activity is reorganized in a manner that affects the defense dependents' education system, the Secretary of Defense shall submit a report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Department of Defense Education Activity is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

(Pub. L. 95-561, title XIV, §1403, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 106-65, div. A, title III, §354(2), Oct. 5, 1999, 113 Stat. 572; Pub. L. 106-398, §1 [[div. A], title X, §1087(g)(8)], Oct. 30, 2000, 114 Stat. 1654, 1654A-294.)

**Editorial Notes**

REFERENCES IN TEXT

The Defense Department Overseas Teachers Pay and Personnel Practices Act, referred to in subsec. (c)(1), is Pub. L. 86-91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(6). Pub. L. 106-398 struck out “the” before “the Assistant Secretary of Defense”.

1999—Pub. L. 106-65, §354(2)(A), amended section catchline.

Subsec. (a). Pub. L. 106-65, §354(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows:

“(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

“(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this chapter referred to as the ‘Director’), who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.”

Subsec. (b). Pub. L. 106-65, §354(2)(B), made technical amendment to reference in original act which appears in text as reference to this chapter.

Subsec. (c)(1). Pub. L. 106-65, §354(2)(C), inserted “(20 U.S.C. 901 et seq.)” after “Personnel Practices Act”.

Subsec. (c)(2). Pub. L. 106-65, §354(2)(D), substituted a comma for the period at end.

Subsec. (c)(6). Pub. L. 106-65, §354(2)(E), substituted “the Assistant Secretary of Defense designated under subsection (a)” for “Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics”.

Subsec. (d)(1). Pub. L. 106-65, §354(2)(F), struck out “for the Office of Dependents' Education” after “area offices”.

Subsec. (d)(2). Pub. L. 106-65, §354(2)(G), struck out first sentence which read: "Not later than six months after November 1, 1978, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system." and substituted "Whenever the Department of Defense Education Activity" for "Whenever the Office of Dependents' Education", "in a manner that affects the defense dependents' education system" for "after the submission of the report required under the preceding sentence", and "a report" for "an additional report".

Subsec. (d)(3). Pub. L. 106-65, §354(2)(H), substituted "the Department of Defense Education Activity" for "the Office of Dependents' Education".

### § 923. Space-available enrollment of students; tuition

#### (a) Enrollment of ineligible child in system school

Subject to subsection (b) and in accordance with regulations issued under subsection (c), the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

#### (b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

#### (c) Regulations respecting enrollment requirements

(1) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

#### (d) Enrollment of certain children in overseas schools

(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 932(2) of this title) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c), the Secretary may not waive the tuition requirements of subsection (b)(1) with respect to children referred to in paragraph (1).

(Pub. L. 95-561, title XIV, §1404, Nov. 1, 1978, 92 Stat. 2366; Pub. L. 99-145, title XII, §1205, Nov. 8, 1985, 99 Stat. 721; Pub. L. 101-189, div. A, title III, §325(b), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 108-136, div. A, title V, §563, Nov. 24, 2003, 117 Stat. 1483.)

#### Editorial Notes

##### AMENDMENTS

2003—Pub. L. 108-136, §563(b), substituted "Space-available enrollment of students; tuition" for "Tuition-paying students" in section catchline.

Subsec. (c). Pub. L. 108-136, §563(a), designated existing provisions as par. (1) and added par. (2).

1989—Subsec. (d)(1)(A). Pub. L. 101-189 substituted "(other than civilian officers and employees who are sponsors under section 932(2) of this title)" for "(including employees of nonappropriated fund activities of the Department of Defense)".

1985—Subsec. (d). Pub. L. 99-145 added subsec. (d).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title III, §325(c), Nov. 29, 1989, 103 Stat. 1415, provided that: "The amendments made by this section [amending this section and section 932 of this title] shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989."