

Editorial Notes

AMENDMENTS

2007—Pub. L. 110-134 inserted “for a period of 5 years” after “provide financial assistance to such agency”.

1998—Cl. (1). Pub. L. 105-285 substituted “enable the children” for “aid the children” and inserted “and attain school readiness” before the semicolon.

1994—Pub. L. 103-252 struck out subsec. (a) designation, in cl. (1), substituted “health, education, parental involvement, nutritional, social, and other services” for “health, nutritional, educational, social, and other services”, and struck out subsec. (b) which read as follows: “For purposes of providing financial assistance under subsection (a) of this section to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter V of this chapter.”

1988—Pub. L. 100-297 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100-297, see section 6303 of Pub. L. 100-297, set out as a note under section 1071 of Title 20, Education.

§ 9834. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter (other than section 9852b of this title) \$7,350,000,000 for fiscal year 2008, \$7,650,000,000 for fiscal year 2009, \$7,995,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 and 2012.

(Pub. L. 97-35, title VI, §639, Aug. 13, 1981, 95 Stat. 499; Pub. L. 98-558, title I, §102, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99-425, title I, §101, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-120, §2, Oct. 23, 1989, 103 Stat. 700; Pub. L. 101-501, title I, §§103, 120(b), 140, Nov. 3, 1990, 104 Stat. 1224, 1236, 1242; Pub. L. 103-252, title I, §104, May 18, 1994, 108 Stat. 625; Pub. L. 105-285, title I, §105, Oct. 27, 1998, 112 Stat. 2705; Pub. L. 110-134, §5, Dec. 12, 2007, 121 Stat. 1367.)

Editorial Notes

AMENDMENTS

2007—Pub. L. 110-134 amended section generally. Prior to amendment, section related to authorization of appropriations to carry out this subchapter for fiscal years 1999 through 2003 and availability of amount appropriated.

1998—Subsec. (a). Pub. L. 105-285, §105(1), substituted “1999 through 2003” for “1995 through 1998”.

Subsec. (b)(1) to (3). Pub. L. 105-285, §105(2), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

“(1) \$35,000,000 for each of the fiscal years 1995 through 1998 to—

“(A) carry out the Head Start Transition Project Act; and

“(B) carry out activities authorized under section 9837(d) of this title; and

“(2) not more than \$3,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal

years 1996 through 1998, to carry out longitudinal research under section 9844(e) of this title.”

1994—Subsec. (a). Pub. L. 103-252, §104(1), substituted “such sums as may be necessary for fiscal years 1995 through 1998” for “(other than section 9846a of this title) \$1,552,000,000 for fiscal year 1990, \$2,386,000,000 for fiscal year 1991, \$4,273,000,000 for fiscal year 1992, \$5,924,000,000 for fiscal year 1993, and \$7,660,000,000 for fiscal year 1994”.

Subsecs. (b), (c). Pub. L. 103-252, §104(2), added subsec. (b) and struck out former subsecs. (b) and (c) which read as follows:

“(b) There are authorized to be appropriated to carry out section 9846a of this title, such sums as may be necessary for fiscal years 1991 through 1996.

“(c)(1) If the amount appropriated under subsection (a) of this section for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall make available not less than \$20,000,000 to carry out the Head Start Transition Project Act.

“(2) The Secretary shall make available not less than \$20,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the Head Start Transition Project Act.”

1990—Pub. L. 101-501, §140, added subsec. (c).

Pub. L. 101-501, §120(b), designated existing provisions as subsec. (a), inserted “(other than section 9846a of this title)” after “of this subchapter”, and added subsec. (b).

Pub. L. 101-501, §103, struck out “\$1,198,000,000 for fiscal year 1987, \$1,263,000,000 for fiscal year 1988, \$1,332,000,000 for fiscal year 1989, and” after “of this subchapter” and inserted “, \$2,386,000,000 for fiscal year 1991, \$4,273,000,000 for fiscal year 1992, \$5,924,000,000 for fiscal year 1993, and \$7,660,000,000 for fiscal year 1994” after “1990”.

1989—Pub. L. 101-120 substituted “\$1,552,000,000” for “\$1,405,000,000”.

1986—Pub. L. 99-425 amended section generally, substituting “\$1,198,000,000 for fiscal year 1987, \$1,263,000,000 for fiscal year 1988, \$1,332,000,000 for fiscal year 1989, and \$1,405,000,000 for fiscal year 1990” for “\$1,093,030,000 for fiscal year 1985, and \$1,221,000,000 for fiscal year 1986”.

1984—Pub. L. 98-558 substituted “\$1,093,030,000 for fiscal year 1985, and \$1,221,000,000 for fiscal year 1986” for “\$950,000,000 for fiscal year 1982, \$1,007,000,000 for fiscal year 1983, and \$1,058,357,000 for fiscal year 1984”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

§ 9835. Allotment of funds**(a) Distribution of appropriations; priorities, etc.**

(1) Using the sums appropriated pursuant to section 9834 of this title for a fiscal year, the Secretary shall allocate such sums in accordance with paragraphs (2) through (5).

(2)(A) The Secretary shall determine an amount for each fiscal year for each State that is equal to the amount received through base grants for the prior fiscal year by the Head

Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii) of subparagraph (B).

(B) The Secretary shall reserve for each fiscal year such sums as are necessary—

(i) to provide each amount determined for a State under subparagraph (A) to the Head Start agencies (including Early Head Start agencies) in the State that are not described in clause (ii) or (iii), by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year;

(ii) to provide an amount for the Indian Head Start programs that is equal to the amount provided for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency (including each Early Head Start agency) administering an Indian Head Start program an amount equal to that agency's base grant for the prior fiscal year;

(iii) to provide an amount for the migrant and seasonal Head Start programs, on a nationwide basis, that is equal to the amount provided nationwide for base grants for such programs under this subchapter for the prior fiscal year, by allotting to each Head Start agency administering a migrant or seasonal Head Start program an amount equal to that agency's base grant for the prior fiscal year;

(iv) to provide an amount for each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year;

(v) to provide an amount for the Republic of Palau (for Head Start agencies (including Early Head Start agencies) in the jurisdiction) for each of fiscal years 2008 and 2009, and (if legislation approving a new agreement regarding United States assistance for the Republic of Palau has not been enacted by September 30, 2009) for each of fiscal years 2010 through 2012, that is equal to the amount provided for base grants for such jurisdiction under this subchapter for the prior fiscal year, by allotting to each agency described in this clause an amount equal to that agency's base grant for the prior fiscal year; and

(vi) to provide an amount for a collaboration grant under section 9837b(a) of this title for each State, for the Indian Head Start programs, and for the migrant and seasonal Head Start programs, in the same amount as the corresponding collaboration grant provided under this subchapter for fiscal year 2007.

(C)(i) The Secretary shall reserve for each fiscal year an amount that is not less than 2.5 percent and not more than 3 percent of the sums appropriated pursuant to section 9834 of this title for that fiscal year, to fund training and technical assistance activities, from which reserved amount—

(I) the Secretary shall set aside a portion, but not less than 20 percent, to be used to fund

training and technical assistance activities for Early Head Start programs, in accordance with section 9840a(g)(2) of this title; and

(II) the Secretary shall set aside a portion, equal to the rest of the reserved amount, to fund training and technical assistance activities for other Head Start programs, in accordance with section 9843 of this title, of which portion—

(aa) not less than 50 percent shall be made available to Head Start agencies to use directly, which may include at their discretion the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, to make program improvements identified by such agencies, by carrying out the training and technical assistance activities described in section 9843(d) of this title;

(bb) not less than 25 percent shall be available to the Secretary to support a State-based training and technical assistance system, or a national system, described in section 9843(e) of this title for supporting program quality; and

(cc) the remainder of the portion set aside under this subclause shall be available to the Secretary to assist Head Start agencies in meeting and exceeding the standards described in section 9836a(a)(1) of this title by carrying out activities described in subsections (a), (b), (c), (f), and (g) of section 9843 of this title, including helping Head Start programs address weaknesses identified by monitoring activities conducted by the Secretary under section 9836a(c) of this title, except that not less than \$3,000,000 of the remainder shall be made available to carry out activities described in section 9843(a)(3)(B)(ii) of this title.

(ii) In determining the portion set aside under clause (i)(I) and the amount reserved under this subparagraph, the Secretary shall consider the number of Early Head Start programs newly funded for that fiscal year.

(D) The Secretary shall reserve not more than \$20,000,000 to fund research, demonstration, and evaluation activities under section 9844 of this title, of which not more than \$7,000,000 for each of fiscal years 2008 through 2012 shall be available to carry out impact studies under section 9844(g) of this title.

(E) The Secretary shall reserve not more than \$42,000,000 for discretionary payments by the Secretary, including payments for all costs (other than compensation of Federal employees) for activities carried out under subsection (c) or (e) of section 9836a of this title.

(F) If the sums appropriated under section 9834 of this title are not sufficient to provide the amounts required to be reserved under subparagraphs (B) through (E), the amounts shall be reduced proportionately.

(G) Nothing in this section shall be construed to deny the Secretary the authority, consistent with sections 9836, 9836a, and 9841 of this title to terminate, suspend, or reduce funding to a Head Start agency.

(3)(A) From any amount remaining for a fiscal year after the Secretary carries out paragraph (2) (referred to in this paragraph as the "remaining amount"), the Secretary shall—

(i) subject to clause (ii)—

(I) provide a cost of living increase for each Head Start agency (including each Early Head Start agency) funded under this subchapter for that fiscal year, to maintain the level of services provided during the prior year; and

(II) subject to subparagraph (B), provide \$10,000,000 for Indian Head Start programs (including Early Head Start programs), and \$10,000,000 for migrant and seasonal Head Start programs, to increase enrollment in the programs involved;

(ii) subject to clause (iii), if the remaining amount is not sufficient to carry out clause (i)—

(I) for each of fiscal years 2008, 2009, and 2010—

(aa) subject to subparagraph (B), provide 5 percent of that amount for Indian Head Start programs (including Early Head Start programs), and 5 percent of that amount for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

(bb) use 90 percent of that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage (but not less than 50 percent) of the cost of living increase described in clause (i); and

(II) for fiscal year 2011 and each subsequent fiscal year—

(aa) provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the cost of living increase described in clause (i); and

(bb) subject to subparagraph (B), with any portion of the remaining amount that is not used under item (aa), provide equal amounts for Indian Head Start programs (including Early Head Start programs), and for migrant and seasonal Head Start programs, to increase enrollment in the programs involved; and

(iii) if the remaining amount is not sufficient to carry out clause (ii) for the fiscal year involved, use that amount to provide, for each Head Start agency (including each Early Head Start agency) funded as described in clause (i)(I), the same percentage of the cost of living increase described in clause (i).

(B)(i) Notwithstanding any other provision of this paragraph, the Indian Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, and the migrant and seasonal Head Start programs shall not receive more than a total cumulative amount of \$50,000,000 for all fiscal years, under clause (i)(II), and subclauses (I)(aa) and (II)(bb) of clause (ii), of subparagraph (A) (referred to in this subsection as the “special expansion provisions”), to increase enrollment in the programs involved.

(ii)(I) Funds that are appropriated under section 9834 of this title for a fiscal year, and made available to Indian Head Start programs or mi-

grant or seasonal Head Start programs under the special expansion provisions, shall remain available until the end of the following fiscal year.

(II) For purposes of subclause (I)—

(aa) if no portion is reallocated under clause (iii), those funds shall remain available to the programs involved; or

(bb) if a portion is reallocated under clause (iii), the portion shall remain available to the recipients of the portion.

(iii) Of the funds made available as described in clause (ii), the Secretary shall reallocate the portion that the Secretary determines is unobligated 18 months after the funds are made available. The Secretary shall add that portion to the balance described in paragraph (4), and reallocate the portion in accordance with paragraph (4), for the following fiscal year referred to in clause (ii).

(4)(A) Except as provided in subparagraph (B), from any amount remaining for a fiscal year after the Secretary carries out paragraphs (2) and (3) (referred to in this paragraph as the “balance”), the Secretary shall—

(i) reserve 40 percent to carry out subparagraph (C) and paragraph (5);

(ii) reserve 45 percent to carry out subparagraph (D); and

(iii) reserve 15 percent (which shall remain available through the end of fiscal year 2012) to provide funds for carrying out section 9837b(b)(2) of this title.

(B)(i) Under the circumstances described in clause (ii), from the balance, the Secretary shall—

(I) reserve 45 percent to carry out subparagraph (C) and paragraph (5); and

(II) reserve 55 percent to carry out subparagraph (D).

(ii) The Secretary shall make the reservations described in clause (i) for a fiscal year if—

(I) the total cumulative amount reserved under subparagraph (A)(iii) for all preceding fiscal years equals \$100,000,000; or

(II) in the 2-year period preceding such fiscal year, funds were reserved under subparagraph (A)(iii) in an amount that totals not less than \$15,000,000 and the Secretary received no approvable applications for such funds.

(iii) The total cumulative amount reserved under subparagraph (A)(iii) for all fiscal years may not be greater than \$100,000,000.

(C) The Secretary shall fund the quality improvement activities described in paragraph (5) using the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of which—

(i) a portion that is less than 10 percent may be reserved by the Secretary to provide funding to Head Start agencies (including Early Head Start agencies) that demonstrate the greatest need for additional funding for such activities, as determined by the Secretary; and

(ii) a portion that is not less than 90 percent shall be reserved by the Secretary to allot, to each Head Start agency (including each Early Head Start agency), an amount that bears the

same ratio to such portion as the number of enrolled children served by the agency involved bears to the number of enrolled children served by all the Head Start agencies (including Early Head Start agencies), except that the Secretary shall account for the additional costs of serving children in Early Head Start programs and may consider whether an agency is providing a full-day program or whether an agency is providing a full-year program.

(D) The Secretary shall fund expansion of Head Start programs (including Early Head Start programs) using the amount reserved under subparagraph (A)(ii) or subparagraph (B)(i)(II), as appropriate, of which the Secretary shall—

(i) use 0.2 percent for Head Start programs funded under clause (iv) or (v) of paragraph (2)(B) (other than Early Head Start programs);

(ii) for any fiscal year after the last fiscal year for which Indian Head Start programs receive funds under the special expansion provisions, use 3 percent for Head Start programs funded under paragraph (2)(B)(ii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 9844(k) of this title indicate that the percentage should be increased;

(iii) for any fiscal year after the last fiscal year for which migrant or seasonal Head Start programs receive funds under the special expansion provisions, use 4.5 percent for Head Start programs funded under paragraph (2)(B)(iii) (other than Early Head Start programs), except that the Secretary may increase that percentage if the Secretary determines that the results of the study conducted under section 9844(l) of this title indicate that the percentage should be increased; and

(iv) from the remainder of the reserved amount—

(I) use 50 percent for Head Start programs funded under paragraph (2)(B)(i) (other than Early Head Start programs), of which—

(aa) the covered percentage shall be allocated among the States serving less than 60 percent (as determined by the Secretary) of children who are 3 or 4 years of age from families whose income is below the poverty line, by allocating to each of those States an amount that bears the same relationship to that covered percentage as the number of children who are less than 5 years of age from families whose income is below the poverty line (referred to in this subclause as “young low-income children”) in that State bears to the number of young low-income children in all those States; and

(bb) the remainder shall be allocated proportionately among the States on the basis of the number of young low-income children; and

(II) use 50 percent for Early Head Start programs.

(E) In this paragraph, the term “covered percentage” means—

(i) for fiscal year 2008, 30 percent;

(ii) for fiscal year 2009, 40 percent;

(iii) for fiscal year 2010, 50 percent;

(iv) for fiscal year 2011, 55 percent; and

(v) for fiscal year 2012, 55 percent.

(5)(A) Not less than 50 percent of the amount reserved under subparagraph (A)(i) or subparagraph (B)(i)(I), as appropriate, of paragraph (4) to carry out quality improvement activities under paragraph (4)(C) and this paragraph shall be used to improve the compensation (including benefits) of educational personnel, family service workers, and child counselors, as described in sections 9839(a) and 9848 of this title, in the manner determined by the Head Start agencies (including Early Head Start agencies) involved, to—

(i) ensure that compensation is adequate to attract and retain qualified staff for the programs involved in order to enhance program quality;

(ii) improve staff qualifications and assist with the implementation of career development programs for staff that support ongoing improvement of their skills and expertise; and

(iii) provide education and professional development to enable teachers to be fully competent to meet the professional standards established under section 9843a(a)(1) of this title, including—

(I) providing assistance to complete post-secondary course work;

(II) improving the qualifications and skills of educational personnel to become certified and licensed as bilingual education teachers, or as teachers of English as a second language; and

(III) improving the qualifications and skills of educational personnel to teach and provide services to children with disabilities.

(B) Any remaining funds from the reserved amount described in subparagraph (A) shall be used to carry out any of the following activities:

(i) Supporting staff training, child counseling, and other services, necessary to address the challenges of children from immigrant, refugee, and asylee families, homeless children, children in foster care, limited English proficient children, children of migrant or seasonal farmworker families, children from families in crisis, children referred to Head Start programs (including Early Head Start programs) by child welfare agencies, and children who are exposed to chronic violence or substance abuse.

(ii) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, and are accessible to children with disabilities and other individuals with disabilities.

(iii) Employing additional qualified classroom staff to reduce the child-to-teacher ratio in the classroom and additional qualified family service workers to reduce the family-to-staff ratio for those workers.

(iv) Ensuring that Head Start programs have qualified staff that promote the language skills and literacy growth of children and that provide children with a variety of skills that

have been identified, through scientifically based reading research, as predictive of later reading achievement.

(v) Increasing hours of program operation, including—

(I) conversion of part-day programs to full-working-day programs; and

(II) increasing the number of weeks of operation in a calendar year.

(vi) Improving communitywide strategic planning and needs assessments for Head Start programs and collaboration efforts for such programs, including outreach to children described in clause (i).

(vii) Transporting children in Head Start programs safely, except that not more than 10 percent of funds made available to carry out this paragraph may be used for such purposes.

(viii) Improving the compensation and benefits of staff of Head Start agencies, in order to improve the quality of Head Start programs.

(6) No sums appropriated under this subchapter may be combined with funds appropriated under any provision other than this subchapter if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such sums appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.

(7) In this subsection:

(A) The term “base grant”, used with respect to a fiscal year, means the amount of permanent ongoing funding (other than funding described in sections 9840a(g)(2)(A)(i) of this title and paragraph (2)(C)(i)(II)(aa)) provided to a Head Start agency (including an Early Head Start agency) under this subchapter for that fiscal year.

(B) The term “cost-of-living increase”, used with respect to an agency for a fiscal year, means an increase in the funding for that agency, based on the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the prior fiscal year, calculated on the amount of the base grant for that agency for the prior fiscal year.

(C) For the purposes of this subsection, the term “State” does not include Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(b) Federal share

Financial assistance extended under this subchapter for a Head Start program shall not exceed 80 percent of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines that such action is required in furtherance of the purposes of this subchapter. For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

(1) the lack of resources available in the community that may prevent the Head Start

agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

(c) Services covered

No programs shall be approved for assistance under this subchapter unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

(d) Enrollment of children with disabilities and provision of services

(1) The Secretary shall establish policies and procedures to assure that, for fiscal year 2009 and thereafter, not less than 10 percent of the total number of children actually enrolled by each Head Start agency and each delegate agency will be children with disabilities who are determined to be eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), by the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.).

(2) Such policies and procedures shall ensure the provision of early intervening services, such as educational and behavioral services and supports, to meet the needs of children with disabilities, prior to an eligibility determination under the Individuals with Disabilities Education Act.

(3) Such policies and procedures shall require Head Start agencies to provide timely referral to and collaborate with the State or local agency providing services under section 619 or part C of the Individuals with Disabilities Education Act to ensure the provision of special education and related services and early intervention services, and the coordination of programmatic efforts, to meet the special needs of such children.

(4) The Secretary shall establish policies and procedures to provide Head Start agencies with waivers of the requirements of paragraph (1) for not more than 3 years. Such policies and procedures shall require Head Start agencies, in order to receive such waivers, to provide evidence demonstrating that the Head Start agencies are

making reasonable efforts on an annual basis to comply with the requirements of that paragraph.

(5) Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under the Individuals with Disabilities Education Act.

(e) Distribution of benefits between residents of rural and urban areas

The Secretary shall adopt appropriate administrative measures to assure that the benefits of this subchapter will be distributed equitably between residents of rural and urban areas.

(f) Guidelines for local service delivery models

(1) Not later than 1 year after December 12, 2007, the Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs, including models that leverage the capacity and capabilities of the delivery system of early childhood education and development services or programs.

(2) In establishing the procedures the Secretary shall establish procedures to provide for—

(A) the conversion of part-day programs to full-working-day programs or part-day slots to full-working-day slots; and

(B) serving additional infants and toddlers pursuant to section 9840(a)(5) of this title.

(g) Maintenance of current services; expansion of Head Start programs

(1) For the purpose of expanding Head Start programs¹ the Secretary shall take into consideration—

(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed standards described in section 9836a(a)(1) of this title and other requirements under this subchapter, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);

(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

(C) the extent to which the applicant has undertaken a communitywide strategic planning and needs assessment involving other entities, including community organizations, and Federal, State, and local public agencies (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), that provide services to children and families, such as—

(i) family support services;

(ii) child abuse prevention services;

(iii) protective services;

(iv) foster care;

(v) services for families in whose homes English is not the language customarily spoken;

(vi) services for children with disabilities; and

(vii) services for homeless children;

(D) the extent to which the family needs assessment and communitywide strategic planning and needs assessment of the applicant reflect a need to provide full-working-day or full calendar year services and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with the State and local community providers of child care or preschool services to provide full-working-day full calendar year services;

(E) the number of eligible children, as described in clause (i) or (ii) of section 9840(a)(1)(B) of this title, in each community who are not participating in a Head Start program or any other publicly funded early childhood education and development program;

(F) the concentration of low-income families in each community;

(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will leverage the existing delivery systems of such services and enhance the resource capacity of the applicant; and

(H) the extent to which the applicant, in providing services, successfully coordinated activities with the local educational agency serving the community involved (including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))), and with schools in which children participating in such applicant's program will enroll following such program, with respect to such services and the education services provided by such local educational agency.

(2) Notwithstanding paragraph (1), in using funds made available for expansion under subsection (a)(4)(D), the Secretary shall first allocate the funds to qualified applicants proposing to use such funds to serve children from families with incomes below the poverty line. Agencies that receive such funds are subject to the eligibility and enrollment requirements under section 9840(a)(1) of this title.

(3)(A) In the event that the amount appropriated to carry out the program under this subchapter for a fiscal year does not exceed the amount appropriated for the prior fiscal year, or is not sufficient to maintain services comparable to the services provided under this subchapter during the prior fiscal year, a Head Start agency may negotiate with the Secretary a reduced funded enrollment level without a reduction in the amount of the grant received by the agency under this subchapter, if such agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.

(B) In accordance with this paragraph, the Secretary shall set up a process for Head Start

¹ So in original. Probably should be followed by a comma.

agencies to negotiate the reduced funded enrollment levels referred to in subparagraph (A) for the fiscal year involved.

(C) In the event described in subparagraph (A), the Secretary shall be required to notify Head Start agencies of their ability to negotiate the reduced funded enrollment levels if such an agency can reasonably demonstrate that such reduced funded enrollment level is necessary to maintain the quality of services.

(h) Full-working-day services

Financial assistance provided under this subchapter may be used by each Head Start program to provide full-working-day Head Start services to any eligible child throughout the full calendar year.

(i) Vehicle safety regulations

The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs. The regulations shall also establish requirements to ensure the appropriate supervision of, and appropriate background checks for, individuals with whom the agencies contract to transport those children.

(j) Compensation of staff

Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this subchapter² shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

(k) Flexibility in hours of service requirement

(1) The Secretary shall allow center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations in effect on May 18, 1994, to be provided to children in Head Start programs so long as such agencies do not—

- (A) provide less than 3 hours of service per day;
- (B) reduce the number of days of service per week; or
- (C) reduce the number of days of service per year.

(2) The provisions of this subsection shall not be construed to restrict the authority of the Secretary to fund alternative program variations authorized under section 1306.35 of title 45 of the Code of Federal Regulations in effect on May 18, 1994.

(l) Frequent relocation of migrant families

(1) With funds made available under this subchapter to expand migrant and seasonal Head Start programs, the Secretary shall give priority to migrant and seasonal Head Start programs that serve eligible children of migrant or seasonal farmworker families whose work requires them to relocate most frequently.

(2) In determining the need and demand for migrant and seasonal Head Start programs (and

services provided through such programs), the Secretary shall consult with appropriate entities, including providers of services for migrant and seasonal Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant and seasonal Head Start programs (and such services), ensure that there is an adequate level of such services for eligible children of migrant farmworker families before approving an increase in the allocation of funds provided under this subchapter for unserved eligible children of seasonal farmworker families. In serving the eligible children of seasonal farmworker families, the Secretary shall ensure that services provided by migrant and seasonal Head Start programs do not duplicate or overlap with other Head Start services available to eligible children of such farmworker families.

(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement at the national level for meeting the needs of Indian children and children of migrant and seasonal farmworker families and shall ensure—

- (A) the provision of training and technical assistance by staff with knowledge of and experience in working with such populations; and
- (B) the appointment of a national Indian Head Start collaboration director and a national migrant and seasonal Head Start collaboration director.

(4)(A) For the purposes of paragraph (3), the Secretary shall conduct an annual consultation in each affected Head Start region, with tribal governments operating Head Start (including Early Head Start) programs.

(B) The consultations shall be for the purpose of better meeting the needs of Indian, including Alaska Native, children and their families, in accordance with this subchapter, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations.

(C) The Secretary shall publish a notification of the consultations in the Federal Register before conducting the consultations.

(D) The Secretary shall ensure that a detailed report of each consultation shall be prepared and made available, within 90 days after the consultation, to all tribal governments receiving funds under this subchapter.

(m) Enrollment and participation of homeless children

The Secretary shall issue rules to establish policies and procedures to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such rules shall require Head Start agencies—

- (1) to implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment;
- (2) to allow families of homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization and other medical records, birth certificates, and other documents, are obtained within a reasonable time frame; and

² See References in Text note below.

(3) to coordinate individual Head Start programs with efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

(n) Construction of prerequisites to participation in program

Nothing in this subchapter shall be construed to require a State to establish a publicly funded program of early childhood education and development, or to require any child to participate in such a publicly funded program, including a State-funded preschool program, or to participate in any initial screening before participating in a publicly funded program of early childhood education and development, except as provided under sections 612(a)(3) and 635(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3), 1435(a)(5)).

(o) Curricula

All curricula funded under this subchapter shall be based on scientifically valid research, and be age and developmentally appropriate. The curricula shall reflect all areas of child development and learning and be aligned with the Head Start Child Outcomes Framework. Parents shall have the opportunity to examine any such curricula or instructional materials funded under this subchapter.

(Pub. L. 97-35, title VI, §640, Aug. 13, 1981, 95 Stat. 499; Pub. L. 98-558, title I, §103, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99-425, title I, §102, Sept. 30, 1986, 100 Stat. 966; Pub. L. 101-476, title IX, §901(d), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101-501, title I, §§104(a), 105, 123(b), Nov. 3, 1990, 104 Stat. 1224, 1228, 1237; Pub. L. 102-119, §26(g), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102-401, §2(a)-(d), (k)(1), Oct. 7, 1992, 106 Stat. 1956, 1958; Pub. L. 103-252, title I, §105, May 18, 1994, 108 Stat. 626; Pub. L. 104-193, title I, §110(t), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 105-285, title I, §106(a)-(d), Oct. 27, 1998, 112 Stat. 2705-2711; Pub. L. 108-446, title III, §305(l)(1), (2), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 110-134, §6, Dec. 12, 2007, 121 Stat. 1367.)

Editorial Notes

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20. Section 619 of the Act is classified to section 1419 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (m)(3), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title VII of the Act is classified generally to part B (§11431 et seq.) of subchapter VI of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

This subchapter, referred to in subsec. (j), was in the original "this Act" and was translated as reading "this subchapter", meaning subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, known as the Head Start Act, which is classified generally to this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-134, §6(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to distribution of appropriations, allotment requirements, and priorities for Head Start funds.

Subsec. (d). Pub. L. 110-134, §6(b), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary shall establish policies and procedures designed to assure that for fiscal year 1999 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for children with disabilities and that services shall be provided to meet their special needs. Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1444, 1419)."

Subsec. (f). Pub. L. 110-134, §6(c), designated existing provisions as par. (1), substituted "Not later than 1 year after December 12, 2007, the" for "The" and "needs, including models that leverage the capacity and capabilities of the delivery system of early childhood education and development services or programs." for "needs.", and added par (2).

Subsec. (g)(1). Pub. L. 110-134, §6(d)(1), (3), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: "If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index For All Urban Consumers, as published by the Bureau of Labor Statistics."

Subsec. (g)(2). Pub. L. 110-134, §6(d)(3), (4), added par. (2) and redesignated former par. (2) as (1).

Pub. L. 110-134, §6(d)(2)(A), struck out "in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4) of this section," after "Head Start programs" in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 110-134, §6(d)(2)(B), substituted "standards described in section 9836a(a)(1) of this title" for "performance standards".

Subsec. (g)(2)(C). Pub. L. 110-134, §6(d)(2)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: "the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations and public agencies serving children and families (including organizations serving families in whose homes English is not the language customarily spoken), and organizations and public entities serving children with disabilities;"

Subsec. (g)(2)(D). Pub. L. 110-134, §6(d)(2)(D), substituted "family needs assessment and communitywide strategic planning and needs assessment" for "family and community needs assessment", "reflect" for "reflects", and "the State and local" for "other local".

Subsec. (g)(2)(E). Pub. L. 110-134, §6(d)(2)(E), added subpar. (E) and struck out former subpar. (E) which read as follows: "the numbers of eligible children in each community who are not participating in a Head Start program or any other early childhood program;"

Subsec. (g)(2)(G), (H). Pub. L. 110-134, §6(d)(2)(F), added subpars. (G) and (H) and struck out former subpars. (G) and (H) which read as follows:

"(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant; and

"(H) the extent to which the applicant, in providing services, plans to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start

program operated by such agency will enroll following such program, regarding such services and the education services provided by such local educational agency.”

Subsec. (g)(3), (4). Pub. L. 110-134, §6(d)(1), (4), added par. (3) and struck out former pars. (3) and (4) which read as follows:

“(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) of this section to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).

“(4) Notwithstanding subsection (a)(2) of this section, after taking into account paragraph (1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) of this section for the purpose of increasing funds available for activities described in such subsection.”

Subsec. (i). Pub. L. 110-134, §6(e), inserted at end “The regulations shall also establish requirements to ensure the appropriate supervision of, and appropriate background checks for, individuals with whom the agencies contract to transport those children.”

Subsec. (l)(1). Pub. L. 110-134, §6(f)(1), substituted “With funds made available under this subchapter to expand migrant and seasonal Head Start programs,” for “With funds made available under subsection (a)(2) of this section to migrant and seasonal Head Start programs,” and “children of migrant or seasonal farmworker families” for “children of migrant and seasonal farmworker families”.

Subsec. (l)(2). Pub. L. 110-134, §6(f)(2), substituted “In determining” for “For purposes of subsection (a)(2)(A) of this section, in determining”, “children of migrant farmworker families” for “children of migrant farmworkers”, “under this subchapter” for “under such subsection”, “children of seasonal farmworker families” for “children of seasonal farmworkers” in two places, and “children of such farmworker families” for “children of such farmworkers”.

Subsec. (l)(3), (4). Pub. L. 110-134, §6(f)(3), added pars. (3) and (4) and struck out former par. (3) which read as follows: “In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the needs of children of migrant and seasonal farmworkers and Indian children and shall ensure that appropriate funding is provided to meet such needs.”

Subsecs. (m) to (o). Pub. L. 110-134, §6(g), added subsecs. (m) to (o).

2004—Subsec. (a)(5)(C)(iv). Pub. L. 108-446, §305(l)(1), substituted “1431-1444” for “1431-1445”.

Subsec. (d). Pub. L. 108-446, §305(l)(2), substituted “U.S.C.” for “U.S.C.” and “1431-1444” for “1431-1445”.

1998—Subsec. (a)(2). Pub. L. 105-285, §106(a)(1)(F), inserted at end of concluding provisions “No Freely Associated State may receive financial assistance under this subchapter after fiscal year 2002.”

Subsec. (a)(2)(A). Pub. L. 105-285, §106(a)(1)(A), substituted “Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs” for “and migrant Head Start programs and services for handicapped children”, “Head Start programs and by migrant and seasonal” for “and migrant” before “Head Start programs” in two places, and “1998” for “1994”.

Subsec. (a)(2)(B). Pub. L. 105-285, §106(a)(1)(B), substituted “(B) payments, subject to paragraph (7)—”, cls. (i) to (iii), and “according” for “(B) payments to Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands according”.

Subsec. (a)(2)(C). Pub. L. 105-285, §106(a)(1)(C), substituted “, of which not less than \$3,000,000 of the amount appropriated for such fiscal year shall be made available to carry out activities described in section 9843(c)(4) of this title;” for “; and”.

Subsec. (a)(2)(D). Pub. L. 105-285, §106(a)(1)(D), which directed substitution of “carried out under paragraph

(1), (2), or (3) of section 9836a(d) of this title related to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies; and” for “related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title.”, was executed by making the substitution for “related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title.”

Subsec. (a)(2)(E). Pub. L. 105-285, §106(a)(1)(E), added subpar. (E).

Subsec. (a)(3)(A)(i)(I). Pub. L. 105-285, §106(a)(2)(A), substituted “60 percent of such excess amount for fiscal year 1999, 50 percent of such excess amount for fiscal year 2000, 47.5 percent of such excess amount for fiscal year 2001, 35 percent of such excess amount for fiscal year 2002, and 25 percent of such excess amount for fiscal year 2003;” for “25 percent of such excess amount;”.

Subsec. (a)(3)(B)(ii). Pub. L. 105-285, §106(a)(2)(B)(i), substituted “adequate numbers of qualified staff” for “adequate qualified staff” and inserted “and children with disabilities” before “, when appropriate”.

Subsec. (a)(3)(B)(iv). Pub. L. 105-285, §106(a)(2)(B)(ii), inserted before period at end “, and to encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development”.

Subsec. (a)(3)(B)(v). Pub. L. 105-285, §106(a)(2)(B)(iii), inserted “and collaboration efforts for such programs” before period at end.

Subsec. (a)(3)(B)(vi). Pub. L. 105-285, §106(a)(2)(B)(iv), inserted before period at end “, and are accessible to children with disabilities and their parents”.

Subsec. (a)(3)(B)(vii), (viii). Pub. L. 105-285, §106(a)(2)(B)(v), (vi), added cl. (vii) and redesignated former cl. (vii) as (viii).

Subsec. (a)(3)(C)(i)(I). Pub. L. 105-285, §106(a)(2)(C)(i)(I), substituted “this paragraph” for “this subparagraph”, “of classroom teachers and other staff” for “of staff”, and “qualified staff, including recruitment and retention pursuant to achieving the requirements set forth in section 9843a(a) of this title” for “such staff”, and inserted at end “Preferences in awarding salary increases, in excess of cost-of-living allowances, with such funds shall be granted to classroom teachers and staff who obtain additional training or education related to their responsibilities as employees of a Head Start program.”

Subsec. (a)(3)(C)(i)(II). Pub. L. 105-285, §106(a)(2)(C)(i)(II), substituted “this subparagraph” for “the subparagraph”.

Subsec. (a)(3)(C)(i)(III). Pub. L. 105-285, §106(a)(2)(C)(i)(III), added subcl. (III).

Subsec. (a)(3)(C)(ii). Pub. L. 105-285, §106(a)(2)(C)(ii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.”

Subsec. (a)(3)(C)(v) to (vii). Pub. L. 105-285, §106(a)(2)(C)(iii), (iv), redesignated cls. (vi) and (vii) as (v) and (vi), respectively, and struck out former cl. (v) which read as follows: “To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.”

Subsec. (a)(3)(D)(i)(II). Pub. L. 105-285, §106(a)(2)(D), substituted “Head Start programs and migrant and seasonal” for “and migrant”.

Subsec. (a)(4). Pub. L. 105-285, §106(a)(3)(C), inserted concluding provisions.

Subsec. (a)(4)(A). Pub. L. 105-285, §106(a)(3)(A), substituted “1998” for “1981”.

Subsec. (a)(4)(B). Pub. L. 105-285, §106(a)(3)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

“(B) 33½ percent of any amount available after all allotments have been made under subparagraph (A) for such fiscal year shall be distributed on the basis of the

relative number of children from birth through 18 years of age, on whose behalf payments are made under the State program of assistance funded under part A of title IV of the Social Security Act in each State as compared to all States; and

“(ii) 66% percent of such amount shall be distributed on the basis of the relative number of children from birth through 5 years of age living with families with incomes below the poverty line in each State as compared to all States.”

Subsec. (a)(5)(A). Pub. L. 105-285, §106(a)(4)(A), substituted “subparagraphs (B) and (D)” for “subparagraph (B)”.

Subsec. (a)(5)(B). Pub. L. 105-285, §106(a)(4)(B), inserted before period at end “and to encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under subchapter II-B of this chapter and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families”.

Subsec. (a)(5)(C)(i)(I). Pub. L. 105-285, §106(a)(4)(C)(i), inserted “the appropriate regional office of the Administration for Children and Families and” before “agencies”.

Subsec. (a)(5)(C)(iii). Pub. L. 105-285, §106(a)(4)(C)(ii), struck out “and” at end.

Subsec. (a)(5)(C)(iv). Pub. L. 105-285, §106(a)(4)(C)(iii), substituted “education, and community service activities,” for “education, and national service activities,” “activities” for “and activities” before “relating to children with disabilities”, and “(including coordination of services with those State officials who are responsible for administering part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419), and services for homeless children;” for period at end.

Subsec. (a)(5)(C)(v), (vi). Pub. L. 105-285, §106(a)(4)(C)(iv), added cls. (v) and (vi).

Subsec. (a)(5)(D) to (F). Pub. L. 105-285, §106(a)(4)(D), (E), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

Subsec. (a)(6). Pub. L. 105-285, §106(a)(5), designated existing provisions as subpar. (A), substituted “7.5 percent for fiscal year 1999, 8 percent for fiscal year 2000, 9 percent for fiscal year 2001, 10 percent for fiscal year 2002, and 10 percent for fiscal year 2003, of the amount appropriated pursuant to section 9834(a) of this title, except as provided in subparagraph (B).” for “3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 9834(a) of this title.”, and added subpars. (B) and (C).

Subsec. (d). Pub. L. 105-285, §106(b)(2), which directed striking out “(as defined in section 1401(a) of title 20)”, was executed by striking out “(as defined in section 1401(a)(1) of title 20)” after “children with disabilities” to reflect the probable intent of Congress.

Pub. L. 105-285, §106(b)(1), (3), substituted “1999” for “1982” and inserted at end “Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431-1445, 1419).”.

Subsec. (g)(2)(A). Pub. L. 105-285, §106(c)(1)(A), inserted before semicolon at end “, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter)”.

Subsec. (g)(2)(C). Pub. L. 105-285, §106(c)(1)(B), inserted “, and organizations and public entities serving children with disabilities” before semicolon at end.

Subsec. (g)(2)(D). Pub. L. 105-285, §106(c)(1)(C), inserted before semicolon at end “and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day full calendar year services”.

Subsec. (g)(2)(E). Pub. L. 105-285, §106(c)(1)(D), substituted “program or any other early childhood program;” for “program; and”.

Subsec. (g)(2)(G), (H). Pub. L. 105-285, §106(c)(1)(E), (F), added subpars. (G) and (H).

Subsec. (g)(4). Pub. L. 105-285, §106(c)(2), added par. (4).

Subsec. (I). Pub. L. 105-285, §106(d), designated existing provisions as par. (1), substituted “migrant and seasonal Head Start programs” for “migrant Head Start programs” in two places and “migrant and seasonal farmworker families” for “migrant families”, and added pars. (2) and (3).

1996—Subsec. (a)(4)(B)(i). Pub. L. 104-193 substituted “State program of assistance funded” for “program of aid to families with dependent children under a State plan approved”.

1994—Subsec. (a)(1). Pub. L. 103-252, §105(b)(1), substituted “through (4), and subject to paragraphs (5) and (6)” for “through (5)”.

Subsec. (a)(2)(A). Pub. L. 103-252, §105(b)(2)(A), substituted “1994” for “1990”.

Subsec. (a)(2)(D). Pub. L. 103-252, §105(b)(2)(B), inserted “(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 9836a(c) of this title, and of activities related to the development and implementation of quality improvement plans under section 9836a(d)(2) of this title)” after “Secretary”.

Subsec. (a)(3)(A), (B). Pub. L. 103-252, §105(a)(2), added subpars. (A) and (B). Former subpars. (A) and (B) redesignated subpars. (C) and (D), respectively.

Subsec. (a)(3)(C). Pub. L. 103-252, §105(a)(1)-(3), redesignated subpar. (A) as (C), substituted in introductory provisions “Quality improvement funds shall be used to carry out any or all of the following activities:” for “For any fiscal year for which the amount appropriated under section 9834(a) of this title exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:”, and added cl. (vii).

Subsec. (a)(3)(D). Pub. L. 103-252, §105(a)(1), redesignated subpar. (B) as (D).

Subsec. (a)(3)(D)(i). Pub. L. 103-252, §105(a)(4)(A), (b)(3), struck out “for the first, second, and third fiscal years for which funds are so reserved” after “subparagraph (A)” in introductory provisions, substituted “paragraph (4)” for “paragraph (5)” in subcl. (I), and inserted “geographical areas specified in subsection (a)(2)(B) of this section and Indian and migrant Head Start programs,” after “States,” in subcl. (II).

Subsec. (a)(3)(D)(ii). Pub. L. 103-252, §105(b)(3), substituted “paragraph (4)” for “paragraph (5)”.

Pub. L. 103-252, §105(a)(4)(B), (E), redesignated cl. (iv) as (ii) and struck out former cl. (ii) which read as follows: “Funds reserved under subparagraph (A) for any fiscal year subsequent to the third fiscal year for which funds are so reserved shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective subsequent fiscal year.”

Subsec. (a)(3)(D)(iii). Pub. L. 103-252, §105(a)(4)(B), (E), redesignated cl. (vi) as (iii) and struck out former cl. (iii) which read as follows: “To be expended for the activities specified in subparagraph (A) in the first fiscal, second, and third fiscal years for which funds are required by such subparagraph to be reserved, funds allotted under clause (i)(I) shall be used by the Secretary to make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year, in the amount that bears the same ratio to the amount allotted under clause (i)(I) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.”

Subsec. (a)(3)(D)(iv). Pub. L. 103-252, §105(a)(4)(E), redesignated cl. (iv) as (ii).

Pub. L. 103-252, §105(a)(4)(C), substituted "Funds" for "To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, funds" and "clause (i)" for "clause (ii)", inserted ", for expenditure for activities specified in subparagraph (C)", and struck out at end "The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (ii) for such State for such fiscal year."

Subsec. (a)(3)(D)(v). Pub. L. 103-252, §105(a)(4)(E), struck out cl. (v) which read as follows: "If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (iii) or (iv), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency."

Subsec. (a)(3)(D)(vi). Pub. L. 103-252, §105(a)(4)(E), redesignated cl. (vi) as (iii).

Pub. L. 103-252, §105(a)(4)(D), substituted "paragraph (2) or (4)" for "paragraphs (2), (4), and (5)".

Subsec. (a)(4). Pub. L. 103-252, §105(b)(4), (5), redesignated par. (5) as (4), substituted "Subject to section 9834(b) of this title, the Secretary" for "The Secretary", and struck out former par. (4), which related to Secretary reserving sums for grants to carry out early childhood intervention programs, known as "Parent-Child Centers".

Subsec. (a)(5), (6). Pub. L. 103-252, §105(b)(6), added pars. (5) and (6). Former pars. (5) and (6) redesignated (4) and (7), respectively.

Subsec. (a)(7). Pub. L. 103-252, §105(b)(4), redesignated par. (6) as (7).

Subsec. (g). Pub. L. 103-252, §105(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (h). Pub. L. 103-252, §105(d), substituted "Financial assistance provided under this subchapter may be used by each Head Start program to" for "Each Head Start program may".

Subsecs. (j) to (l). Pub. L. 103-252, §105(e), added subsecs. (j) to (l).

1992—Subsec. (a)(2)(A). Pub. L. 102-401, §2(k)(1)(A)(i)(I), inserted "children" after "handicapped".

Subsec. (a)(2)(B). Pub. L. 102-401, §2(k)(1)(A)(i)(II), substituted "Commonwealth of" for "Commonwealth of,".

Subsec. (a)(2)(C). Pub. L. 102-401, §2(k)(1)(A)(i)(III), substituted "such fiscal year" for "any such fiscal year".

Subsec. (a)(3)(A)(vi). Pub. L. 102-401, §2(k)(1)(A)(ii), substituted "paragraph (2)(C)" for "subsection (a)(2)(C) of this section".

Subsec. (a)(3)(B)(i). Pub. L. 102-401, §2(a)(1), substituted ", second, and third" for "and second".

Subsec. (a)(3)(B)(ii). Pub. L. 102-401, §2(a)(2), substituted "third" for "second".

Subsec. (a)(3)(B)(iii). Pub. L. 102-401, §2(a)(1), substituted ", second, and third" for "and second".

Subsec. (a)(4)(B)(i)(II). Pub. L. 102-401, §2(b), inserted ", literacy," after "skills".

Subsec. (a)(5)(B)(i). Pub. L. 102-401, §2(k)(1)(A)(iii), substituted "subparagraph (A)" for "clause (A)".

Subsec. (b). Pub. L. 102-401, §2(c), struck out ", in accordance with regulations establishing objective criteria," after "if the Secretary determines" and inserted after first sentence "For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—" and cls. (1) to (5).

Subsec. (g). Pub. L. 102-401, §2(k)(1)(B), substituted "Price Index For All" for "Price Index for all".

Subsec. (i). Pub. L. 102-401, §2(d), added subsec. (i).

1991—Subsec. (d). Pub. L. 102-119 substituted "section 1401(a)(1) of title 20" for "paragraph (1) of section 1401 of title 20". The references to section 1401 of title 20 include the substitution of "Individuals with Disabilities

Education Act" for "Education of the Handicapped Act" in the original.

1990—Subsec. (a)(1). Pub. L. 101-501, §104(a)(1), substituted "through (5)" for "and (3)".

Subsec. (a)(2). Pub. L. 101-501, §104(a)(2)(D), (E), struck out before last sentence "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984." and inserted "or paragraph (3)" after "under this paragraph" in last sentence.

Subsec. (a)(2)(A). Pub. L. 101-501, §104(a)(2)(A), substituted ", except that there shall be made available for each fiscal year for use by Indian and migrant Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990" for "children, except that there shall be made available for use by Indian and migrant Head Start programs, on a nationwide basis, no less funds for fiscal year 1987 and each subsequent fiscal year than were obligated for use by Indian and migrant Head Start programs for fiscal year 1985".

Subsec. (a)(2)(B). Pub. L. 101-501, §104(a)(2)(B), substituted "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of" for "the Trust Territory of the Pacific Islands".

Subsec. (a)(2)(C). Pub. L. 101-501, §104(a)(2)(C), substituted "2 percent of the amount appropriated for any such fiscal year" for "the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

Subsec. (a)(3), (4). Pub. L. 101-501, §104(a)(5), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (a)(5). Pub. L. 101-501, §104(a)(3), (4), redesignated par. (3) as (5) and struck out "87 percent of the" after "allot the remaining".

Subsec. (a)(6). Pub. L. 101-501, §104(a)(4), (6), redesignated par. (4) as (6), inserted "the Commonwealth of" before "the Northern Mariana", and substituted "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau" for "or the Trust Territory of the Pacific Islands".

Subsec. (d). Pub. L. 101-501, §105(1), struck out sentence at end requiring Secretary to report to Congress at least annually on status of children with disabilities in Head Start programs.

Pub. L. 101-476, §901(d), substituted "children with disabilities" for "handicapped children" in two places and substituted "disabling" for "handicapping".

Subsecs. (f), (g). Pub. L. 101-501, §105(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 101-501, §123(b), added subsec. (h).

1986—Subsec. (a)(2)(A). Pub. L. 99-425, in amending cl. (A) generally, designated existing subcl. (i) as all of cl. (A), substituted "1987" for "1982" and "1985" for "1981", and struck out subcl. (ii) relating to cost-of-living adjustments.

1984—Subsec. (a)(2). Pub. L. 98-558 inserted "as described in section 9843 of this title, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982" in cl. (C), and inserted at end "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter."

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-401, § 4, Oct. 7, 1992, 106 Stat. 1959, provided that:

“(a) EFFECTIVE DATES.—(1) Except as provided in paragraph (2) and subsection (b), this Act [amending this section and sections 9835a to 9839, 9846, 9846a, and 9858n of this title and enacting provisions set out as a note under section 9836 of this title] and the amendments made by this Act shall take effect on the date of the enactment of this Act [Oct. 7, 1992].

“(2) The amendment made by section 2(e)(1) [amending section 9836 of this title] shall take effect on July 30, 1992.

“(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act, other than the amendment made by section 2(e)(1), shall not apply with respect to fiscal years beginning before October 1, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of Title 20, Education.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

§ 9835a. Repealed. Pub. L. 103-252, title I, § 106, May 18, 1994, 108 Stat. 629

Section, Pub. L. 97-35, title VI, § 640A, as added Pub. L. 101-501, title I, § 106, Nov. 3, 1990, 104 Stat. 1229; amended Pub. L. 102-401, § 2(k)(2), Oct. 7, 1992, 106 Stat. 1958, directed Secretary to prepare both interim and final comprehensive reports to Congress on administration, funding, and demographics of Head Start programs.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252,

set out as an Effective Date of 1994 Amendment note under section 9832 of this title.

§ 9836. Designation of Head Start agencies**(a) Authority to designate****(1) In general**

The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, pursuant to the requirements of this section.

(2) Interim policy

Notwithstanding paragraph (1), until such time as the Secretary develops and implements the system for designation renewal under this section, the Secretary is authorized to designate as a Head Start agency, any local public or private nonprofit agency, including community-based and faith-based organizations, or for-profit agency, within a community, in the manner and process utilized by the Secretary prior to December 12, 2007.

(b) Application for designation renewal

To be considered for designation renewal, an entity shall submit an application to the Secretary, at such time and in such manner as the Secretary may require.

(c) System for designation renewal**(1) In general**

The Secretary shall develop a system for designation renewal that integrates the recommendations of the expert panel convened under paragraph (2) to determine if a Head Start agency is delivering a high-quality and comprehensive Head Start program that meets the educational, health, nutritional, and social needs of the children and families it serves, and meets program and financial management requirements and standards described in section 9836a(a)(1) of this title, based on—

- (A) annual budget and fiscal management data;
- (B) program reviews conducted under section 9836a(c) of this title;
- (C) annual audits required under section 9842 of this title;
- (D) classroom quality as measured under section 9836a(c)(2)(F) of this title; and
- (E) Program Information Reports.

(2) Expert panel

Not later than 3 months after December 12, 2007, the Secretary shall convene an expert panel of 7 members to make recommendations to the Secretary on the development of a transparent, reliable, and valid system for designation renewal.

(3) Composition of expert panel

The Secretary, in convening such panel, shall appoint the following:

- (A)(i) One member, who has demonstrated competency, as evidenced by training, expertise, and experience, in early childhood program accreditation.
- (ii) One member, who has demonstrated competency (as so evidenced) in research on early childhood development.