

TITLE 20 - EDUCATION**CHAPTER 70 - STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS****SUBCHAPTER I - IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED****Part A - Improving Basic Programs Operated by Local Educational Agencies
subpart 2 - allocations****§ 6337. Education finance incentive grant program****(a) Grants**

From funds appropriated under subsection (f) of this section the Secretary is authorized to make grants to States, from allotments under subsection (b) of this section, to carry out the programs and activities of this part.

(b) Distribution based upon fiscal effort and equity**(1) In general****(A) In general**

Except as provided in subparagraph (B), funds appropriated pursuant to subsection (f) of this section shall be allotted to each State based upon the number of children counted under section 6333 (c) of this title in such State multiplied by the product of—

- (i)** the amount in section 6333 (a)(1)(B) of this title for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less than 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 6333 (a)(4) of this title for the Commonwealth of Puerto Rico, except that the amount in section 6333 (a)(4)(A)(ii) of this title shall be 34 percent of the average per pupil expenditure in the United States; multiplied by
- (ii)** such State's effort factor described in paragraph (2); multiplied by
- (iii)** 1.30 minus such State's equity factor described in paragraph (3).

(B) State minimum

Notwithstanding any other provision of this section or section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

- (i)** 0.35 percent of total appropriations; or
- (ii)** the average of—
 - (I)** 0.35 percent of the total amount available to carry out this section; and
 - (II)** 150 percent of the national average grant under this section per child described in section 6333 (c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333 (c) of this title, without application of a weighting factor.

(2) Effort factor**(A) In general**

Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator

of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

(B) Commonwealth of Puerto Rico

The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) Equity factor

(A) Determination

(i) In general

Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii) Computation

(I) In general

For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), and (IV).

(II) Variation

In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

(III) Number of pupils

In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 6333 (c) of this title by a factor of 1.4.

(IV) Enrollment requirement

In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(B) Special rule

The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding January 8, 2002) or a State with only one local educational agency shall be not greater than 0.10.

(c) Use of funds; eligibility of local educational agencies

All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 6313 of this title, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333 (c) of this title, before application of the weighted child count described in paragraph (3), is at least 10; and

(B) if the number of children counted for grants under section 6333 (c) of this title, before application of the weighted child count described in paragraph (3), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational

agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(d) Allocation of funds to eligible local educational agencies

Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) States with an equity factor less than .10

In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause "(i)"¹ is determined by adding—

(I) the number of children determined under section 6333 (c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding

(I) the number of children determined under section 6333 (c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

- (I) the number of children determined under section 6333 (c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;
- (III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;
- (IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and
- (V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

- (I) the number of children determined under section 6333 (c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;
- (III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;
- (IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and
- (V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(2) States with an equity factor greater than or equal to .10 and less than .20

In States with an equity factor greater than or equal to .10 and less than .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

- (I) the number of children determined under section 6333 (c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;
- (III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;
- (IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5; and
- (V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

- (I)** the number of children determined under section 6333 (c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II)** the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;
- (III)** the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;
- (IV)** the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and
- (V)** the number of such children in excess of 93,811 in such population, multiplied by 4.5.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

- (I)** the number of children determined under section 6333 (c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II)** the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;
- (III)** the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;
- (IV)** the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5; and
- (V)** the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

- (I)** the number of children determined under section 6333 (c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II)** the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;
- (III)** the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;
- (IV)** the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and
- (V)** the number of such children in excess of 35,514 in such population, multiplied by 4.5.

(3) States with an equity factor greater than or equal to .20

In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333 (c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333 (c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333 (c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

- (III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;
- (IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0; and
- (V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

- (I) the number of children determined under section 6333 (c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;
- (III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;
- (IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and
- (V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

(e) **Maintenance of effort**

(1) **In general**

Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) **Reduction of funds**

The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) **Waivers**

The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(f) **Authorization of appropriations**

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(g) **Adjustments where necessitated by appropriations**

(1) **In general**

If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under this section for such year,

NB: This unofficial compilation of the U.S. Code is current as of Jan. 8, 2008 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

(2) Additional funds

If additional funds become available for making payments under this section for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(3) Hold-harmless amounts

For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be

- (A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;
- (B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and
- (C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

Footnotes

¹ So in original. The opening quotation marks probably should not appear.

(Pub. L. 89–10, title I, § 1125A, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1525.)

Prior Provisions

A prior section 6337, Pub. L. 89–10, title I, § 1126, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577, related to special allocation procedures, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6338 of this title.

A prior section 1125A of Pub. L. 89–10 was classified to section 6336 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.