

## ESEA Statutory References

### SEC. 1120A. FISCAL REQUIREMENTS.

#### (b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS-

(1) IN GENERAL- A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

(2) SPECIAL RULE- No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

#### (c) COMPARABILITY OF SERVICES-

##### (1) IN GENERAL-

(A) COMPARABLE SERVICES- Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

(B) SUBSTANTIALLY COMPARABLE SERVICES- If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

(C) BASIS- A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

##### (2) WRITTEN ASSURANCE-

(A) EQUIVALENCE- A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented--

(i) a local educational agency-wide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) DETERMINATIONS- For the purpose of this subsection, in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary

differentials for years of employment shall not be included in such determinations.

(C) EXCLUSIONS- A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

(3) PROCEDURES AND RECORDS- Each local educational agency assisted under this part shall--

(A) develop procedures for compliance with this subsection; and

(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

(4) INAPPLICABILITY- This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

(5) COMPLIANCE- For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for--

(A) language instruction educational programs; and

(B) the excess costs of providing services to children with disabilities as determined by the local educational agency.

#### **SEC. 1304. STATE APPLICATIONS; SERVICES.**

(c) ASSURANCES- Each such application shall also include assurances, satisfactory to the Secretary, that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1120A, and part I;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

#### **SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.**

(a) COMPREHENSIVE PLAN-

(1) IN GENERAL- Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that —

(A) is integrated with other programs under this Act or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 9302, if —

(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and language instruction educational programs under part A or B of title III; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) DURATION OF THE PLAN- Each such comprehensive State plan shall —

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.