

SUBPART H--PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

§300.800 In general. The Secretary provides grants under section 619 of the Act to assist States to provide special education and related services in accordance with Part B of the Act--

- (a) To children with disabilities aged three through five years; and
- (b) At a State's discretion, to two-year-old children with disabilities who will turn three during the school year. (Authority: 20 U.S.C. 1419(a))

§§300.801-300.802 [Reserved]

§300.803 Definition of State. As used in this subpart, State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. (Authority: 20 U.S.C. 1419(i))

§300.804 Eligibility. A State is eligible for a grant under section 619 of the Act if the State--

- (a) Is eligible under section 612 of the Act to receive a grant under Part B of the Act; and
- (b) Makes FAPE available to all children with disabilities, aged three through five, residing in the State. (Authority: 20 U.S.C. 1419(b))

§300.805 [Reserved]

§300.806 Eligibility for financial assistance. No State or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under subpart 2 or 3 of Part D of the Act that relates exclusively to programs, projects, and activities pertaining to children aged three through five years, unless the State is eligible to receive a grant under section 619(b) of the Act. (Authority: 20 U.S.C. 1481(e))

§300.807 Allocations to States. The Secretary allocates the amount made available to carry out section 619 of the Act for a fiscal year among the States in accordance with §§300.808 through 300.810. (Authority: 20 U.S.C. 1419(c)(1))

§300.808 Increase in funds. If the amount available for allocation to States under §300.807 for a fiscal year is equal to or greater than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocations are calculated as follows:

- (a) Except as provided in §300.809, the Secretary--
 - (1) Allocates to each State the amount the State received under section 619 of the Act for fiscal year 1997;
 - (2) Allocates 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged three through five; and
 - (3) Allocates 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged three through five who are living in poverty.
- (b) For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary. (Authority: 20 U.S.C. 1419(c)(2)(A))

§300.809 Limitations.

- (a) Notwithstanding §300.808, allocations under that section are subject to the following:
 - (1) No State's allocation may be less than its allocation under section 619 of the Act for the preceding fiscal year.
 - (2) No State's allocation may be less than the greatest of--
 - (i) The sum of--
 - (A) The amount the State received under section 619 of the Act for fiscal year 1997; and
 - (B) One-third of one percent of the amount by which the amount appropriated under section 619(j) of the Act for the fiscal year exceeds the amount appropriated for section 619 of the Act for fiscal year 1997;
 - (ii) The sum of--
 - (A) The amount the State received under section 619 of the Act for the preceding fiscal year; and
 - (B) That amount multiplied by the percentage by which the increase in the funds appropriated under section 619 of the Act from the preceding fiscal year exceeds 1.5 percent; or
 - (iii) The sum of--
 - (A) The amount the State received under section 619 of the Act for the preceding fiscal year; and

- (B) That amount multiplied by 90 percent of the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year.
- (b) Notwithstanding paragraph (a)(2) of this section, no State's allocation under §300.808 may exceed the sum of--
- (1) The amount the State received under section 619 of the Act for the preceding fiscal year; and
 - (2) That amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year.
- (c) If the amount available for allocation to States under §300.808 and paragraphs (a) and (b) of this section is insufficient to pay those allocations in full, those allocations are ratably reduced, subject to paragraph (a)(1) of this section. (Authority: 20 U.S.C. 1419(c)(2)(B) and (c)(2)(C))

§300.810 Decrease in funds. If the amount available for allocations to States under §300.807 for a fiscal year is less than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocations are calculated as follows:

- (a) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State is allocated the sum of--
- (1) The amount the State received under section 619 of the Act for fiscal year 1997; and
 - (2) An amount that bears the same relation to any remaining funds as the increase the State received under section 619 of the Act for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.
- (b) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State is allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary. (Authority: 20 U.S.C. 1419(c)(3))

§300.811 [Reserved]

§300.812 Reservation for State activities.

- (a) Each State may reserve not more than the amount described in paragraph (b) of this section for administration and other State-level activities in accordance with §§300.813 and 300.814.
- (b) For each fiscal year, the Secretary determines and reports to the SEA an amount that is 25 percent of the amount the State received under section 619 of the Act for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of--
- (1) The percentage increase, if any, from the preceding fiscal year in the State's allocation under section 619 of the Act; or
 - (2) The rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.
- (Authority: 20 U.S.C. 1419(d))

§300.813 State administration.

- (a) For the purpose of administering section 619 of the Act (including the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide services to children with disabilities), a State may use not more than 20 percent of the maximum amount the State may reserve under §300.812 for any fiscal year.
- (b) Funds described in paragraph (a) of this section may also be used for the administration of Part C of the Act. (Authority: 20 U.S.C. 1419(e))

§300.814 Other State-level activities. Each State must use any funds the State reserves under §300.812 and does not use for administration under §300.813--

- (a) For support services (including establishing and implementing the mediation process required by section 615(e) of the Act), which may benefit children with disabilities younger than three or older than five as long as those services also benefit children with disabilities aged three through five;
- (b) For direct services for children eligible for services under section 619 of the Act;
- (c) For activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) of the Act;
- (d) To supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than one percent of the amount received by the State under section 619 of the Act for a fiscal year;
- (e) To provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C of the Act to children with disabilities who

are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten; or

(f) At the State's discretion, to continue service coordination or case management for families who receive services under Part C of the Act, consistent with §300.814(e). (Authority: 20 U.S.C. 1419(f))

§300.815 Subgrants to LEAs. Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds that the State does not reserve under §300.812 to LEAs in the State that have established their eligibility under section 613 of the Act. (Authority: 20 U.S.C. 1419(g)(1))

§300.816 Allocations to LEAs.

(a) Base payments. The State must first award each LEA described in §300.815 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.

(b) Base payment adjustments. For fiscal year 1998 and beyond--

(1) If a new LEA is created, the State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each of the LEAs;

(2) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; and

(3) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three through five changes, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each affected LEA.

(c) Allocation of remaining funds. After making allocations under paragraph (a) of this section, the State must--

(1) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

(2) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

(d) Use of best data. For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools and the numbers of children living in poverty. (Authority: 20 U.S.C. 1419(g)(1))

§300.817 Reallocation of LEA funds. If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities aged three through five residing in the area served by the LEA with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five residing in the areas the other LEAs serve. (Authority: 20 U.S.C. 1419(g)(2))

§300.818 Part C of the Act inapplicable. Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under section 619 of the Act.

(Authority: 20 U.S.C. 1419(h))

END OF SUBPART H