

PART E—FLEXIBILITY FOR EQUITABLE PER PUPIL FUNDING

SEC. 1501. [20 U.S.C. 6491] FLEXIBILITY FOR EQUITABLE PER-PUPIL FUNDING.

(a) **PURPOSE.**—The purpose of the program under this section is to provide local educational agencies with flexibility to consolidate eligible Federal funds and State and local education funding in order to create a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(b) **AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary is authorized to enter into local flexibility demonstration agreements—

(A) for not more than 3 years with local educational agencies that are selected under subsection (c) and submit proposed agreements that meet the requirements of subsection (d); and

(B) under which such agencies may consolidate and use funds in accordance with subsection (d) in order to develop and implement a school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.

(2) **FLEXIBILITY.**—Except as described in subsection (d)(1)(I), the Secretary is authorized to waive, for local educational agencies entering into agreements under this section, any provision of this Act that would otherwise prevent such agency from using eligible Federal funds as part of such agreement.

(c) **SELECTION OF LOCAL EDUCATIONAL AGENCIES.**—

(1) **IN GENERAL.**—The Secretary may enter into local flexibility demonstration agreements with not more than 50 local educational agencies with an approved application under subsection (d).

(2) **SELECTION.**—Each local educational agency shall be selected based on such agency—

(A) submitting a proposed local flexibility demonstration agreement under subsection (d);

(B) demonstrating that the agreement meets the requirements of such subsection; and

(C) agreeing to meet the continued demonstration requirements under subsection (e).

(3) **EXPANSION.**—Beginning with the 2019–2020 academic year, the Secretary may extend funding flexibility authorized under this section to any local educational agency that submits and has approved an application under subsection (d), as long as a significant majority of the demonstration agreements with local educational agencies described in paragraph (1) meet the requirements of subsection (d)(2) and subsection (e)(1) as of the end of the 2018–2019 academic year.

(d) **REQUIRED TERMS OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.**—

(1) **APPLICATION.**—Each local educational agency that desires to participate in the program under this section shall submit, at such time and in such form as the Secretary may prescribe, an application to enter into a local flexibility demonstration agreement with the Secretary in order to develop and implement a school funding system based on weighted per-pupil allocations that meets the requirements of this section. The application shall include—

(A) a description of the school funding system based on weighted per-pupil allocations, including—

(i) the weights used to allocate funds within such system;

(ii) the local educational agency’s legal authority to use State and local education funds consistent with this section;

(iii) how such system will meet the requirements of paragraph (2); and

(iv) how such system will support the academic achievement of students, including low-income students, the lowest-achieving students, English learners, and children with disabilities;

(B) a list of funding sources, including eligible Federal funds, the local educational agency will include in such system;

(C) a description of the amount and percentage of total local educational agency funding, including State and local education funds and eligible Federal funds, that will be allocated through such system;

(D) the per-pupil expenditures (which shall include actual personnel expenditures, including staff salary differentials for years of employment, and actual nonpersonnel expenditures) of State and local education funds for each school served by the agency for the preceding fiscal year;

(E) the per-pupil amount of eligible Federal funds each school served by the agency received in the preceding fiscal year, disaggregated by the programs supported by the eligible Federal funds;

(F) a description of how such system will ensure that any eligible Federal funds allocated through the system will meet the purposes of each Federal program supported by such funds, including serving students from low-income families, English learners, migratory children, and children who are neglected, delinquent, or at risk, as applicable;

(G) an assurance that the local educational agency developed and will implement the local flexibility demonstration agreement in consultation with teachers, principals, other school leaders (including charter school leaders in a local educational agency that has charter schools), administrators of Federal programs impacted by the agreement, parents, community leaders, and other relevant stakeholders;

(H) an assurance that the local educational agency will use fiscal control and sound accounting procedures that ensure proper disbursement of, and accounting for, eligible Federal funds consolidated and used under such system;

(I) an assurance that the local educational agency will continue to meet the requirements of sections 1117, 1118, and 8501; and

(J) an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using funds under the agreement.

(2) REQUIREMENTS OF THE SYSTEM.—

(A) IN GENERAL.—A local educational agency's school funding system based on weighted per-pupil allocations shall—

(i) except as allowed under clause (iv), allocate a significant portion of funds, including State and local education funds and eligible Federal funds, to the school level based on the number of students in a school and a formula developed by the agency under this section that determines per-pupil weighted amounts;

(ii) use weights or allocation amounts that allocate substantially more funding to English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the local educational agency, than to other students;

(iii) ensure that each high-poverty school receives, in the first year of the demonstration agreement—

(I) more per-pupil funding, including from Federal, State, and local sources, for low-income students than such funding received for low-income students in the year prior to entering into a demonstration agreement under this section; and

(II) at least as much per-pupil funding, including from Federal, State, and local sources, for English learners as such funding received for English learners in the year prior to entering into a demonstration agreement under this section;

(iv) be used to allocate to schools a significant percentage, which shall be a percentage agreed upon during the application process, of all the local educational agency's State and local education funds and eligible Federal funds; and

(v) include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual nonpersonnel expenditures in the calculation of the local educational agency's State and local education funds and eligible Federal funds to be allocated under clause (i).

(B) PERCENTAGE.—In establishing the percentage described in subparagraph (A)(iv) for the system, the local educational agency shall demonstrate that the percentage—

(i) under such subparagraph is sufficient to carry out the purposes of the demonstration agreement under this section and to meet each of the requirements of this subsection; and

(ii) of State and local education funds and eligible Federal funds that are not allocated through the local educational agency's school funding system based on weighted per-pupil allocations, does not undermine or conflict with the requirements of the demonstration agreement under this section.

(C) EXPENDITURES.—After allocating funds through the system, the local educational agency shall charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual nonpersonnel expenditures.

(e) CONTINUED DEMONSTRATION.—Each local educational agency with an approved application under subsection (d) shall annually—

(1) demonstrate to the Secretary that, as compared to the previous year, no high-poverty school served by the agency received—

(A) less per-pupil funding, including from Federal, State, and local sources, for low-income students; or

(B) less per-pupil funding, including from Federal, State, and local sources, for English learners;

(2) make public and report to the Secretary the per-pupil expenditures (including actual personnel expenditures that include staff salary differentials for years of employment, and actual non-personnel expenditures) of State and local education funds and eligible Federal funds for each school served by the agency, disaggregated by each quartile of students attending the school based on student level of poverty and by each major racial or ethnic group in the school, for the preceding fiscal year;

(3) make public the total number of students enrolled in each school served by the agency and the number of students enrolled in each such school disaggregated by each of the subgroups of students, as defined in section 1111(c)(2); and

(4) notwithstanding paragraph (1), (2), or (3), ensure that any information to be reported or made public under this subsection is only reported or made public if such information does not reveal personally identifiable information.

(f) LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.—Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this section may use, for administrative purposes, an amount of eligible Federal funds that is not more than the percentage of funds allowed for such purposes under any of the following:

(1) This title.

(2) Title II.

(3) Title III.

(4) Part A of title IV.

(5) Part B of title V.

(g) PEER REVIEW.—The Secretary may establish a peer-review process to assist in the review of a proposed local flexibility demonstration agreement.

(h) NONCOMPLIANCE.—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide supporting evidence as provided for in subsection (i)), terminate a local flexibility demonstration agreement under this section if there is evidence that the local educational agency has failed to comply with the terms of the agreement and the requirements under subsections (d) and (e).

(i) EVIDENCE.—If a local educational agency believes that the Secretary's determination under subsection (h) is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final determination.

(j) PROGRAM EVALUATION.—From the amount reserved for evaluation activities under section 8601, the Secretary, acting through the Director of the Institute of Education Sciences, shall, in consultation with the relevant program office at the Department, evaluate—

(1) the implementation of the local flexibility demonstration agreements under this section; and

(2) the impact of such agreements on improving the equitable distribution of State and local funding and increasing student achievement.

(k) RENEWAL OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—

The Secretary may renew for additional 3-year terms a local flexibility demonstration agreement under this section if—

(1) the local educational agency has met the requirements under subsections (d)(2) and (e) and agrees to, and has a high likelihood of, continuing to meet such requirements; and

(2) the Secretary determines that renewing the local flexibility demonstration agreement is in the interest of students served under this title and title III.

(1) DEFINITIONS.—In this section:

(1) ELIGIBLE FEDERAL FUNDS.—The term “eligible Federal funds” means funds received by a local educational agency under—

- (A) this title;
- (B) title II;
- (C) title III;
- (D) part A of title IV; and
- (E) part B of title V.

(2) HIGH-POVERTY SCHOOL.—The term “high-poverty school” means a school that is in the highest 2 quartiles of schools served by a local educational agency, based on the percentage of enrolled students from low-income families.