

fices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system." and substituted "Whenever the Department of Defense Education Activity" for "Whenever the Office of Dependents' Education", "in a manner that affects the defense dependents' education system" for "after the submission of the report required under the preceding sentence", and "a report" for "an additional report".

Subsec. (d)(3). Pub. L. 106-65, §354(2)(H), substituted "the Department of Defense Education Activity" for "the Office of Dependents' Education".

§ 923. Tuition-paying students

(a) Enrollment of ineligible child in system school

Subject to subsection (b) of this section and in accordance with regulations issued under subsection (c) of this section, the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c) of this section, any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) Regulations respecting enrollment requirements

The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) of this section with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(d) Enrollment of certain children in overseas schools

(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 932(2) of this title) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c) of this section, the Secretary may not waive the tuition

requirements of subsection (b)(1) of this section with respect to children referred to in paragraph (1).

(Pub. L. 95-561, title XIV, §1404, Nov. 1, 1978, 92 Stat. 2366; Pub. L. 99-145, title XII, §1205, Nov. 8, 1985, 99 Stat. 721; Pub. L. 101-189, div. A, title III, §325(b), Nov. 29, 1989, 103 Stat. 1415.)

AMENDMENTS

1989—Subsec. (d)(1)(A). Pub. L. 101-189 substituted "(other than civilian officers and employees who are sponsors under section 932(2) of this title)" for "(including employees of nonappropriated fund activities of the Department of Defense)".

1985—Subsec. (d). Pub. L. 99-145 added subsec. (d).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 325(c) of Pub. L. 101-189 provided that: "The amendments made by this section [amending this section and section 932 of this title] shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989."

§ 924. Annual educational assessment

(a) Contents

The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) Availability

The results of each annual assessment under subsection (a) of this section with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

(Pub. L. 95-561, title XIV, §1405, Nov. 1, 1978, 92 Stat. 2366.)

§ 925. Budget request for school construction funds for Director of Dependents' Education

The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

(Pub. L. 95-561, title XIV, §1406, Nov. 1, 1978, 92 Stat. 2367.)

§ 926. School system for dependents in overseas areas

(a) Establishment and operation

The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Tuition and assistance when schools unavailable

(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to

attend schools other than schools established under subsection (a) of this section on a tuition-free basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(2)(A) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) of this section are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

(B) The Secretary of Defense and the Secretary of Transportation shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.

(c) Continuation of enrollment for certain dependents of members of Armed Forces involuntarily separated

(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b) of this section) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.

(Pub. L. 95-561, title XIV, § 1407, Nov. 1, 1978, 92 Stat. 2367; Pub. L. 101-510, div. A, title V, § 504(a), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 103-160, div. A, title V, § 561(n), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105-261, div. A, title V, § 561(k), title VI, § 657, Oct. 17, 1998, 112 Stat. 2026, 2054; Pub. L. 106-398, § 1 [[div. A], title V, § 571(k)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135.)

CODIFICATION

Section is comprised of section 1407 of Pub. L. 95-561. Subsec. (d), formerly subsec. (c), of section 1407 enacted section 429 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsec. (b). Pub. L. 105-261, § 657, inserted heading, designated existing provisions as par. (1), sub-

stituted “Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary” for “Under such circumstances as he may by regulation prescribe, the Secretary of Defense”, and added par. (2).

Subsec. (c)(1). Pub. L. 105-261, § 561(k), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

1993—Subsec. (c)(1). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1990—Subsec. (c). Pub. L. 101-510 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

§ 927. Allotment formula

(a) Establishment by regulation of minimum allotment formula; criteria

The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 921(b)(1) of this title; and

(4) such other factors as the Director considers appropriate.

(b) Issuance, etc., of regulations

Any regulation under subsection (a) of this section shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Secretary of Education in accordance with section 1232 of this title.

(c) Applicability of certain provisions

(1) Children with disabilities

Notwithstanding the provisions of section 921(b)(3) of this title, the provisions of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], other than the funding and reporting provisions, shall apply to all schools operated by the Department of Defense under this chapter, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education.

(2) Infants and toddlers with disabilities

The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 677¹ of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part H¹ of such Act shall apply with respect to all eligible dependents overseas.

(3) Implementation

In carrying out paragraph (2), the Secretary shall have in effect a comprehensive, coordi-

¹ See References in Text note below.