

§§ 301.2–301.3

34 CFR Ch. III (7–1–02 Edition)

(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))

State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1402, 1419)

§§ 301.2–301.3 [Reserved]

§ 301.6 Applicability of part C of the Act to 2-year-old children with disabilities.

§ 301.4 Applicable regulations.

The following regulations apply to the Preschool Grants program:

(a) The Education Department General Administrative Regulations (EDGAR) in title 34 of the Code of Federal Regulations—

(1) Part 76 (State-Administered Programs) except §§ 76.125–76.137 and 76.650–76.662;

(2) Part 77 (Definitions that Apply to Department Regulations);

(3) Part 79 (Intergovernmental Review of Department of Education Programs and Activities);

(4) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

(5) Part 81 (General Education Provision Act—Enforcement);

(6) Part 82 (New Restrictions on Lobbying); and

(7) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)).

(b) The regulations in this part 301.

(c) The regulations in 34 CFR part 300.

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

Part C of the Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with part B of the Act, with funds received under the Preschool Grants program.

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

Subpart B—State Eligibility for a Grant

§ 301.10 Eligibility of a State to receive a grant.

A State is eligible to receive a grant if—

(a) The State is eligible under 34 CFR part 300; and

(b) The State demonstrates to the satisfaction of the Secretary that it has in effect policies and procedures that assure the provision of a free appropriate public education—

(1) For all children with disabilities aged 3 through 5 years in accordance with the requirements in 34 CFR part 300; and

(2) For any 2-year-old children, provided services by the SEA or by an LEA or ESA under § 301.1.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1419 (a), (b))

§ 301.5 Applicable definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

| | |
|-------------|--------------|
| Applicant | Fiscal year |
| Application | Grant period |
| Award | Secretary |
| EDGAR | Subgrant |

(b) *Other definitions.* The following definitions also apply to this part:

Act means the Individuals with Disabilities Education Act, as amended.

Part B child count means the child count required by section 611(d)(2) of the Act.

Preschool means the age range of 3 through 5 years.

§ 301.11 [Reserved]

§ 301.12 Sanctions if a State does not make a free appropriate public education available to all preschool children with disabilities.

If a State does not meet the requirements in section 619(b) of the Act—

(a) The State is not eligible for a grant under the Preschool Grant program;

(b) The State is not eligible for funds under 34 CFR part 300 for children with disabilities aged 3 through 5 years; and

(c) No SEA, LEA, ESA, or other public institution or agency within the

State is eligible for a grant under Subpart 2 of part D of the Act if the grant relates exclusively to programs, projects, and activities pertaining to children with disabilities aged 3 through 5 years.

(Authority: 20 U.S.C. 1411(d)(2) and (e)(2)(B); 1419(b); 1461(j))

Subpart C—Allocation of Funds to States

§ 301.20 Allocations to States.

After reserving funds for studies and evaluations under section 674(e) of the Act, the Secretary allocates the remaining amount among the States in accordance with §§ 301.21–301.23.

(Authority: 20 U.S.C. 1419(c)(1))

§ 301.21 Increase in funds.

If the amount available for allocation to States under § 301.20 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 § 301.22, the Secretary—

- (1) Allocates to each State the amount it received for fiscal year 1997;
- (2) Allocates 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and
- (3) Allocates 15 percent of those remaining funds to States on the basis of their relative populations of children described in paragraph (a)(2) of this section 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))

§ 301.22 Limitation.

(a) Notwithstanding § 301.21, allocations under that section are subject to the following:

- (1) No State’s allocation may be less than its allocation for the preceding fiscal year.
- (2) No State’s allocation may be less than the greatest of—

(i) The sum of—

(A) The amount it received 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 exceeds the amount appropriated under section 619 of the Act for fiscal year 1997;

(ii) The sum of—

(A) The amount it received for the preceding fiscal year; and

(B) That amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

(iii) The sum of—

(A) The amount it received for the preceding fiscal year; and

(B) That amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

(b) Notwithstanding paragraph (a)(2) of this section, no State’s allocation under § 301.21 may exceed the sum of—

(1) The amount it received 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.

(c) If the amount available for allocation to States under § 301.21 and paragraphs (a) and (b) of this section is insufficient to pay those allocations in full, the Secretary ratably reduces those allocations, subject to paragraph (a)(1) of this section.

(Authority: 20 U.S.C. 1419(c)(2)(B) and (C))

§ 301.23 Decrease in funds.

If the amount available for allocations to States under § 301.20 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 it received for fiscal year 1997; and

(2) An amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997