

## § 68.5

## 32 CFR Ch. I (7-1-06 Edition)

programming of handicapped students in special education and related services must conform to the comparable State's regulatory guidelines. Complaints with respect to the identification, evaluation or educational placement of, or the free appropriate public education provided to, students in such a Section 6 School Arrangement who are or may be handicapped shall be investigated under enclosure 5 to DoD Directive 1020.1<sup>1</sup> (§ 68.1(h)). If the State on which a Section 6 School Arrangement's comparability is based has not adopted a State plan, the State plan of an adjacent State must be followed. If no adjacent State has adopted a State plan, the State plan of another State that is similar to the State in which the Section 6 School Arrangement is located shall be selected.

(f) After consultation with the Military Departments, funds shall be made available for the operation and maintenance of Section 6 School Arrangements, on either a direct or reimbursable basis, to the comptroller at the respective military installation. These funds shall remain separate and distinct from the funds of the individual Military Services.

(g) Attendance in Section 6 School and Special Arrangements within CONUS, Alaska, and Hawaii is limited to eligible dependent children under § 68.1(b). Guidance, consistent with § 68.1 (b) and (c) for student eligibility for Section 6 School Arrangements located outside of CONUS, Alaska, and Hawaii shall be established by the Military Department concerned after coordination and approval by the General Counsel of the Department of Defense, or designee, and the Assistant Secretary of Defense (Force Management and Personnel), or designee.

(h) Where a member of the Armed Forces is transferred or retires and the member's family moves after the start of the school year from on-base (post) housing, the member's children shall be permitted to continue in attendance at the Section 6 School Arrangement for the remainder of the school year

during which the transfer or retirement occurred, if the child is residing with a parent or legal guardian or another person acting in loco parentis.

(i) Where a member of the Armed Forces is assigned to an installation on which there is a Section 6 School Arrangement and is assigned on-base (post) family housing that is expected to be available for occupancy and to be occupied within 90 school days from the reporting date, the member's children may be permitted to attend the school while residing in an area adjacent to such Federal property. Transportation for children attending a Section 6 School Arrangement under these conditions is the responsibility of the parent.

### § 68.5 Definitions.

*Adjacent area.* A geographic location that is next to or near Federal property. This normally should include a student commuting area within 45 minutes of the Federal property, unless another area identified as adjacent is designated specifically by an administrator of the Federal property; i.e., the installation commander.

*Arrangements.* Actions taken by the Secretary of Defense to provide a free public education to dependent children under Pub. L. 81-874 through, first, Section 6 School Arrangements or, second, Section 6 Special Arrangements:

(a) *Section 6 School Arrangement.* When a DoD-operated school is established on Federal property to provide a free public education for eligible children or, if not established on such property, the eligible child resides on such property.

(b) *Section 6 Special Arrangement.* An agreement, under § 68.1(b), between the Secretary of Defense, or designee, the ASD(FM&P), or designee, or the Secretary of a Military Department, or designee, and a local public education agency whereby a school or a school system operated by the local public education agency provides educational services to eligible dependent children of U.S. military personnel and federally employed civilian personnel. Arrangements result in partial or total Federal funding to the local public education agency for the educational services provided.

<sup>1</sup>Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, ATTN: Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120.

*Comparability.* Comparability is the act of demonstrating that the educational services and programs, school plant and facilities, budget and per-pupil expenditures, and all associated activities and services provided in Section 6 School Arrangements for the free public education of eligible dependent children are, to the maximum extent practicable, equivalent in quality and availability to those provided by school districts in the State where the Section 6 School Arrangement is located or the district(s) to which it is compared. Each Section 6 School Arrangement, in coordination with the Military Department concerned, shall provide an annual statement, with supporting documentation, which demonstrates its comparability.

*Dependent children.* Children who reside on Federal property, or are minor dependents who are the children, stepchildren, adopted children, or wards of U.S. military sponsors or federally employed sponsors, or who are residents in the households of bona fide sponsors who stand in loco parentis to such individuals and who receive one-half or more of their support from such sponsors, and are within the age limits for which the applicable State provides free public education.

*Federal property.* Real property that is owned or leased by the United States.

*Free public education.* Education that is provided at public expense under public supervision and direction without charge to the sponsor of a child, and that is provided at the elementary or secondary school level of the applicable State. The term shall not include any education provided beyond grade 12, except in the case of State policy regarding the education of handicapped students, nor does it preclude the collecting of tuition from an Agency responsible for the assignment of a child's sponsor resulting in the attendance of the child of a Section 6 School Arrangement.

*Local educational agency.* A board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district in a State. The term includes any State

Agency operating and maintaining facilities for providing free public education.

*Parent.* Includes a legal guardian or another person standing in loco parentis.

*State.* A State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

*State educational agency.* The officer or Agency primarily responsible for State supervision of public elementary and secondary schools.

#### § 68.6 Responsibilities.

(a) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), or designee, shall:

(1) Ensure the development of policies and procedures for the operation, management, budgeting (in accordance with guidance provided by the Assistant Secretary of Defense (Comptroller) (ASD(C))), construction, and financing of Section 6 Schools and for Section 6 Special Arrangements.

(2) Ensure that arrangements shall be made for the free public education of eligible dependent children in CONUS, Alaska, Hawaii, Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, under § 68.1 (a), (b), and (c).

(3) Ensure the establishment of elected school boards in Section 6 School Arrangements operating under § 68.1 (a) and (b).

(4) Ensure that the free public education being provided is, to the maximum extent practicable, of the kind and quality as that being provided by comparable public school districts in the State in which the Section 6 School Arrangement or Section 6 Special Arrangement is located or, if outside of CONUS, Alaska, and Hawaii, as that being provided by the District of Columbia public schools.

(5) Ensure the establishment of audit procedures for reviewing funding of Section 6 School Arrangements and Section 6 Special Arrangements under § 68.1 (a), (b), and (c).

(6) Ensure timely and accurate preparation of budget execution reports and