

§ 300.703

under Part B of the Act for each fiscal year to support technical assistance activities authorized under section 616(i) of the Act.

(b) *Maximum amount.* The maximum amount the Secretary may reserve under paragraph (a) of this section for any fiscal year is \$25,000,000, cumulatively adjusted by 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. 1411(c))

§ 300.703 Allocations to States.

(a) *General.* After reserving funds for technical assistance under § 300.702, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under § 300.701 (a) and (b) for a fiscal year, the Secretary allocates the remaining amount among the States in accordance with paragraphs (b), (c), and (d) of this section.

(b) *Special rule for use of fiscal year 1999 amount.* If a State received any funds under section 611 of the Act for fiscal year 1999 on the basis of children aged three through five, but does not make FAPE available to all children with disabilities aged three through five in the State in any subsequent fiscal year, the Secretary computes the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (c) or (d) of this section, by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

(c) *Increase in funds.* If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is equal to or greater than the amount allocated to the States under section 611 of the Act for the preceding fiscal year, those allocations are calculated as follows:

(1) *Allocation of increase.*—(i) *General.* Except as provided in paragraph (c)(2) of this section, the Secretary allocates for the fiscal year—

(A) To each State the amount the State received under this section for fiscal year 1999;

(B) Eighty-five (85) percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of FAPE under Part B of the Act; and

(C) Fifteen (15) percent of those remaining funds to States on the basis of the States' relative populations of children described in paragraph (c)(1)(i)(B) of this section who are living in poverty.

(ii) *Data.* 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.

(2) *Limitations.* Notwithstanding paragraph (c)(1) of this section, allocations under this section are subject to the following:

(i) *Preceding year allocation.* No State's allocation may be less than its allocation under section 611 of the Act for the preceding fiscal year.

(ii) *Minimum.* No State's allocation may be less than the greatest of—

(A) The sum of—

(1) The amount the State received under section 611 of the Act for fiscal year 1999; and

(2) One third of one percent of the amount by which the amount appropriated under section 611(i) of the Act for the fiscal year exceeds the amount appropriated for section 611 of the Act for fiscal year 1999;

(B) The sum of—

(1) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(2) That amount multiplied by the percentage by which the increase in the funds appropriated for section 611 of the Act from the preceding fiscal year exceeds 1.5 percent; or

(C) The sum of—

(1) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(2) That amount multiplied by 90 percent of the percentage increase in the amount appropriated for section 611 of the Act from the preceding fiscal year.

(iii) *Maximum.* Notwithstanding paragraph (c)(2)(ii) of this section, no

State's allocation under paragraph (a) of this section may exceed the sum of—

(A) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(B) That amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under section 611 of the Act from the preceding fiscal year.

(3) *Ratable reduction.* If the amount available for allocations to States under paragraph (c) of this section is insufficient to pay those allocations in full, those allocations are ratably reduced, subject to paragraph (c)(2)(i) of this section.

(d) *Decrease in funds.* If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is less than the amount allocated to the States under section 611 of the Act for the preceding fiscal year, those allocations are calculated as follows:

(1) *Amounts greater than fiscal year 1999 allocations.* If the amount available for allocations under paragraph (a) of this section is greater than the amount allocated to the States for fiscal year 1999, each State is allocated the sum of—

(i) *1999 amount.* The amount the State received under section 611 of the Act for fiscal year 1999; and

(ii) *Remaining funds.* An amount that bears the same relation to any remaining funds as the increase the State received under section 611 of the Act for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

(2) *Amounts equal to or less than fiscal year 1999 allocations.*—(i) *General.* If the amount available for allocations under paragraph (a) of this section is equal to or less than the amount allocated to the States for fiscal year 1999, each State is allocated the amount it received for fiscal year 1999.

(ii) *Ratable reduction.* If the amount available for allocations under paragraph (d) of this section is insufficient to make the allocations described in paragraph (d)(2)(i) of this section, those allocations are ratably reduced.

(Authority: 20 U.S.C. 1411(d))

§ 300.704 State-level activities.

(a) *State administration.* (1) For the purpose of administering Part B of the Act, including paragraph (c) of this section, section 619 of the Act, and 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—

(i) Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004 or \$800,000 (adjusted in accordance with paragraph (a)(2) of this section), whichever is greater; and

(ii) Each outlying area may reserve for each fiscal year not more than five percent of the amount the outlying area receives under § 300.701(a) for the fiscal year or \$35,000, whichever is greater.

(2) For each fiscal year, beginning with fiscal year 2005, the Secretary cumulatively adjusts—

(i) The maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004; and

(ii) \$800,000, by 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.

(3) Prior to expenditure of funds under paragraph (a) of this section, the State must certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) of the Act are current.

(4) Funds reserved under paragraph (a)(1) of this section may be used for the administration of Part C of the Act, if the SEA is the lead agency for the State under that Part.

(b) *Other State-level activities.* (1) States may reserve a portion of their allocations for other State-level activities. The maximum amount that a State may reserve for other State-level activities is as follows:

(i) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater