

## § 300.708

## 34 CFR Ch. III (7–1–07 Edition)

children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of the payment for any fiscal year is equal to 80 percent of the amount allotted under section 611(b)(2) of the Act for that fiscal year. Of the amount described in the preceding sentence, after the Secretary of the Interior reserves funds for administration under § 300.710, 80 percent must be allocated to such schools by July 1 of that fiscal year and 20 percent must be allocated to such schools by September 30 of that fiscal year.

(c) *Additional requirement.* With respect to all other children aged 3 to 21, inclusive, on reservations, the SEA of the State in which the reservation is located must ensure that all of the requirements of Part B of the Act are implemented.

(Authority: 20 U.S.C. 1411(h)(1))

### § 300.708 Submission of information.

The Secretary may provide the Secretary of the Interior amounts under § 300.707 for a fiscal year only if the Secretary of the Interior submits to the Secretary information that—

(a) Meets the requirements of section 612(a)(1), (3) through (9), (10)(B) through (C), (11) through (12), (14) through (16), (19), and (21) through (25) of the Act (including monitoring and evaluation activities);

(b) Meets the requirements of section 612(b) and (e) of the Act;

(c) Meets the requirements of section 613(a)(1), (2)(A)(i), (7) through (9) and section 613(i) of the Act (references to LEAs in these sections must be read as references to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior);

(d) Meets the requirements of section 616 of the Act that apply to States (references to LEAs in section 616 of the Act must be read as references to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior).

(e) Meets the requirements of this part that implement the sections of the Act listed in paragraphs (a) through (d) of this section;

(f) Includes a description of how the Secretary of the Interior will coordinate the provision of services under Part B of the Act with LEAs, tribes and tribal organizations, and other private and Federal service providers;

(g) Includes an assurance that there are public hearings, adequate notice of the hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in paragraphs (a) through (d) of this section;

(h) Includes an assurance that the Secretary of the Interior provides the information that the Secretary may require to comply with section 618 of the Act;

(i)(1) Includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with the SEAs and LEAs and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations.

(2) The agreement must provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies, as needed for a child with a disability to remain in a school or program; and

(j) Includes an assurance that the Department of the Interior will cooperate with the Department in its exercise of monitoring and oversight of the requirements in this section and §§ 300.709 through 300.711 and §§ 300.713 through 300.716, and any agreements entered into between the Secretary of the Interior and other entities under Part B of the Act, and will fulfill its duties under Part B of the Act. The Secretary withholds payments under § 300.707 with respect to the requirements described in this section in the same manner as the

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**§ 300.712**

Secretary withholds payments under section 616(e)(6) of the Act.

(Authority: 20 U.S.C. 1411(h)(2) and (3))

**§ 300.709 Public participation.**

In fulfilling the requirements of § 300.708 the Secretary of the Interior must provide for public participation consistent with § 300.165.

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

**§ 300.710 Use of funds under Part B of the Act.**

(a) The Secretary of the Interior may reserve five percent of its payment under § 300.707(b) in any fiscal year, or \$500,000, whichever is greater, for administrative costs in carrying out the provisions of §§ 300.707 through 300.709, 300.711, and 300.713 through 300.716.

(b) Payments to the Secretary of the Interior under § 300.712 must be used in accordance with that section.

(Authority: 20 U.S.C. 1411(h)(1)(A))

**§ 300.711 Early intervening services.**

(a) The Secretary of the Interior may allow each elementary school and secondary school for Indian children operated or funded by the Secretary of the Interior to use not more than 15 percent of the amount the school receives under § 300.707(b) for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade three) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment, in accordance with section 613(f) of the Act.

(b) Each elementary school and secondary school for Indian children operated or funded by the Secretary of the Interior that develops and maintains coordinated early intervening services in accordance with section 613(f) of the Act and § 300.226 must annually report

to the Secretary of the Interior in accordance with section 613(f) of the Act.

(Authority: 20 U.S.C. 1411(h) and 1413(f))

**§ 300.712 Payments for education and services for Indian children with disabilities aged three through five.**

(a) *General.* With funds appropriated under section 611(i) of the Act, the Secretary makes payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged three through five on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of the payments under paragraph (b) of this section for any fiscal year is equal to 20 percent of the amount allotted under § 300.701(b).

(b) *Distribution of funds.* The Secretary of the Interior must distribute the total amount of the payment under paragraph (a) of this section by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged three through five residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(c) *Submission of information.* To receive a payment under this section, the tribe or tribal organization must submit the figures to the Secretary of the Interior as required to determine the amounts to be allocated under paragraph (b) of this section. This information must be compiled and submitted to the Secretary.

(d) *Use of funds.* (1) The funds received by a tribe or tribal organization must be used to assist in child find, screening, and other procedures for the early identification of children aged three through five, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, LEAs, and other public or private nonprofit