

§ 240.4

32 CFR Ch. I (7–1–99 Edition)

(d) *Federal property.* Real property that because of Federal law, agreement, or policy is exempt from taxation by a State or political subdivision of a State and that the United States owns in fee simple or leases from another party.

(e) *Local Education Agency (LEA).* A public organization (usually a school district) that has the authority to operate public schools within the limits of the applicable State law.

(f) *Military personnel.* A person who is an Armed Forces member serving on active duty.

(g) *Military 3(a) student.* A child who attends the school(s) of a LEA that provides free public education and who, while attending such school(s) of the LEA, resides on Federal property and has a parent who is on active duty in the Armed Forces (as defined in section 101 of 10 U.S.C.).

(h) *Military 3(b) student.* A child who attends the schools of a LEA that provides a free public education and who, while attending such school(s), has a parent who is on active duty in the Armed Forces (as defined in 10 U.S.C. 101) but does not reside on Federal property.

(i) *Parent.* The lawful father or mother of a person.

(j) *Per-Pupil Expenditure (PPE).* The average current expenditure for an individual student.

§ 240.4 Policy.

It is DoD policy that:

(a) During fiscal year (FY) 1991, the Department of Defense shall obligate 10 million dollars to assist the LEAs that meet criteria in paragraph (c) of this section. Of this 10 million dollars:

(1) Eight hundred and eighty-six thousand dollars shall be provided to the Killen, Texas, Independent School District.

(2) One hundred and sixty-seven thousand dollars shall be provided to the Copperas Cove, Texas, Independent School District.

(3) The remaining 8,947,000 dollars shall be used only to assist the eligible LEAs operating schools that provide free public education to dependent children of Armed Forces members of DoD civilian personnel who:

(i) While attending those schools, reside on Federal property.

(ii) Without such additional assistance, are unable to provide a level of education for such dependents equal to the comparable level of education provided in the State where such dependents reside.

(b) The OSD shall consult with the Office of the Secretary of Education before providing financial assistance to the LEAs.

(c) To be eligible for financial assistance:

(1) The LEA must be unable, without such additional assistance, to provide a level of education for such students equal to the comparable level of education provided in the State where such students reside (as determined by comparable student data).

(2) The LEA has in school year (SY) 1990–1991 an average daily attendance (ADA) of military section 3(a) or 3(b) students (see § 240.3 (g) and (h)) or a combination of military section 3(a) and 3(b) students that is not less than 35 percent of the LEA's total ADA. At least two students attending the LEA must be the dependents of Armed Forces members or of DoD civilian personnel. (For the purposes of this section, the Department of Defense shall rely on ADA data from the U.S. Department of Education (DoED)).

(3) For the prior and current FYs, the LEA has applied for and received, or shall receive, financial assistance from all regular Federal and State educational aid programs available to it, including the Impact Aid Program (Pub. L. No. 81–874, Section 3).

(4) The eligibility of the LEA under State law for State aid for free public education, and the amount of that aid, is no different than the eligibility and amounts received by the LEAs without military dependent students.

(5) The LEA files the following with the Assistant Secretary of Defense (Force Management and Personnel (ASD (FM&P)):

(i) A letter of application (see appendix A to this part).

(ii) One original and two copies of table 8–3 and table 9, which are published by the DoED, from the following forms:

Office of the Secretary of Defense

§ 240.5

(A) ED Form 4019 (Revised 8/90 Page 8), "Fiscal Report For Sections 2, 3(d)(2)(B), and 3(d)(3)(B)(ii) Payment Purposes."

(B) ED Form 4019 (Revised 8/90 Page 9), "Financial Burden and Effort Data."

(iii) A copy of an independently audited financial report of the applicant LEA for the second preceding FY.

(d) The eligible LEAs shall receive financial assistance only for those students who are dependent children of military personnel residing on Federal property while attending a school of the applicant LEA.

(e) Applications for financial assistance, under paragraphs (a)(1) through (a)(3)(iii) of this section must be received no later than June 30, 1991.

(f) The amount of assistance (the DoD contribution) for the eligible LEAs may not exceed the amount derived from the following formula:

(1) Of the 10 million dollars available:

(i) Eight hundred and eighty-six thousand dollars shall be provided to the Killeen, Texas, Independent School District.

(ii) One hundred and sixty-seven thousand dollars will be provided to the Copperas Cove, Texas, Independent School District.

(iii) Of the 8,947,000 dollars remaining:

(A) Amounts of 6,531,310 dollars shall be obligated to those eligible LEAs, whose per-pupil expenditure (PPE) for the second preceding FY was less than the average PPE in the State for the second preceding FY.

(B) Amounts of 2,415,690 dollars shall be obligated to those eligible LEAs, whose PPE for the second preceding FY was equal to, or greater than, the average PPE in the State for the second preceding FY. (For the purposes of this section, the Department of Defense will rely on PPE data from the DoED.)

(2) For those eligible LEAs, whose average PPE for the second preceding FY was less than the average PPE in the State for the second preceding FY, the LEA shall receive an amount, as follows:

(i) Equal to the LEA's military section 3(a) ADA for SY 1990-1991.

(ii) Multiplied by the quotient of the funds available to those LEAs, whose

PPE for the second preceding FY was less than the average PPE in the State for the second preceding FY (6,531,310 dollars).

(iii) Divided by the sum of the ADAs for SY 1990-1991 of military section 3(a) students of those same eligible LEAs.

(3) For those eligible LEAs, whose average PPE for the second preceding FY was equal to, or greater than the average PPE in the State for the second preceding FY, the LEA shall receive an amount, as follows:

(i) Equal to the LEA's military section 3(a) ADA for SY 1990-1991.

(ii) Multiplied by the quotient of the funds available to those LEAs, whose PPE for the second preceding FY was equal to, or greater than, the average PPE in the State for the second preceding FY (2,415,690 dollars).

(iii) Divided by the sum of the ADAs for SY 1990-1991 of military section 3(a) students of those same eligible LEAs.

(4) The sum of the ADAs for SY 1990-1991 for the military section 3(a) students in Killeen, Texas, Independent School District, and the Copperas, Texas, Independent School District, shall:

(i) Be deducted from the sum of the ADAs for SY 1990-1991 for the military section 3(a) students of all the eligible LEAs.

(ii) Not be used in calculating the DoD contribution.

(5) The LEAs that have been identified in Public Law No. 101-511, title II, shall receive the specified amount, but shall not be eligible for additional funding under paragraphs (f)(1)(i) through (iii) of this section.

(6) The ASD (FM&P) shall calculate the proposed contribution.

(g) The contribution may be used for all students in the LEA, at the discretion of the appropriate officials in the LEA.

§ 240.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Force management and Personnel)* shall:

(1) Ensure the implementation of those policies and procedures.

(2) Provide assistance, as required, to the potentially eligible LEAs to meet the requirements in § 240.4(c)(5)(i) through (iii) of this part.