

108TH CONGRESS
1ST SESSION

H. R. 1350

IN THE SENATE OF THE UNITED STATES

MAY 1, 2003

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To reauthorize the Individuals with Disabilities Education
Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Education
3 Results for Children With Disabilities Act of 2003”.

4 **TITLE I—GENERAL PROVISIONS**

5 **SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS
6 WITH DISABILITIES EDUCATION ACT.**

7 Sections 601 through 603 of the Individuals with
8 Disabilities Education Act (20 U.S.C. 1400–1402) are
9 amended to read as follows:

10 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;
11 PURPOSES.**

12 “(a) **SHORT TITLE.**—This Act may be cited as the
13 ‘Individuals with Disabilities Education Act’.

14 “(b) **TABLE OF CONTENTS.**—The table of contents
15 for this Act is as follows:

“PART A—GENERAL PROVISIONS

“Sec. 601. Short title; table of contents; findings; purposes.

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

“Sec. 605. Acquisition of equipment; construction or alteration of facilities.

“Sec. 606. Employment of individuals with disabilities.

“Sec. 607. Requirements for prescribing regulations.

“Sec. 608. State administration.

“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH
DISABILITIES

“Sec. 611. Authorization; allotment; use of funds; authorization of appropria-
tions.

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

“Sec. 614. Evaluations, eligibility determinations, individualized education pro-
grams, and educational placements.

“Sec. 615. Procedural safeguards.

“Sec. 616. Monitoring, enforcement, withholding, and judicial review.

“Sec. 617. Administration.

“Sec. 618. Program information.

“Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

- “Sec. 631. Findings and policy.
- “Sec. 632. Definitions.
- “Sec. 633. General authority.
- “Sec. 634. Eligibility.
- “Sec. 635. Requirements for statewide system.
- “Sec. 636. Individualized family service plan.
- “Sec. 637. State application and assurances.
- “Sec. 638. Uses of funds.
- “Sec. 639. Procedural safeguards.
- “Sec. 640. Payor of last resort.
- “Sec. 641. State Interagency Coordinating Council.
- “Sec. 642. Federal administration.
- “Sec. 643. Allocation of funds.
- “Sec. 644. Authorization of appropriations.

“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN
WITH DISABILITIES

“Sec. 651. Findings.

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

- “Sec. 652. Purpose.
- “Sec. 653. Eligibility and collaborative process.
- “Sec. 654. Applications.
- “Sec. 655. Use of funds.
- “Sec. 656. State grant amounts.
- “Sec. 657. Authorization of appropriations.

“SUBPART 2—SCIENTIFICALLY BASED RESEARCH; TECHNICAL ASSISTANCE;
MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND
PERSONNEL PREPARATION PROGRAMS

- “Sec. 661. Purpose.
- “Sec. 662. Administrative provisions.
- “Sec. 663. Research to improve results for children with disabilities.
- “Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.
- “Sec. 665. Personnel preparation programs to improve services and results for children with disabilities.
- “Sec. 666. Studies and evaluations.
- “Sec. 667. Authorization of appropriations.

“SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH
DISABILITIES

- “Sec. 671. Purposes.
- “Sec. 672. Parent training and information centers.
- “Sec. 673. Community parent resource centers.
- “Sec. 674. Technical assistance for parent training and information centers.
- “Sec. 675. Technology development, demonstration, and utilization; and media services.

1 “(c) FINDINGS.—Congress finds the following:

1 “(1) Disability is a natural part of the human
2 experience and in no way diminishes the right of in-
3 dividuals to participate in or contribute to society.
4 Improving educational results for children with dis-
5 abilities is an essential element of our national policy
6 of ensuring equality of opportunity, full participa-
7 tion, independent living, and economic self-suffi-
8 ciency for individuals with disabilities.

9 “(2) Before the date of the enactment of the
10 Education for All Handicapped Children Act of
11 1975 (Public Law 94–142), the special educational
12 needs of millions of children with disabilities were
13 not being fully met and there were many children
14 with disabilities participating in regular school pro-
15 grams whose undiagnosed disabilities prevented
16 them from having a successful educational experi-
17 ence.

18 “(3) Since the enactment and implementation
19 of the Education for All Handicapped Children Act
20 of 1975, this Act has been successful in ensuring
21 children with disabilities and the families of such
22 children access to a free appropriate public edu-
23 cation and in improving educational results for chil-
24 dren with disabilities.

1 “(4) Over 25 years of research and experience
2 has demonstrated that the education of children with
3 disabilities can be made more effective by—

4 “(A) having high expectations for such
5 children and ensuring their access to the gen-
6 eral education curriculum in the regular class-
7 room to the maximum extent possible in
8 order—

9 “(i) to meet developmental goals and,
10 to the maximum extent possible, the chal-
11 lenging expectations that have been estab-
12 lished for all children; and

13 “(ii) to be prepared to lead productive
14 and independent adult lives, to the max-
15 imum extent possible;

16 “(B) strengthening the role and responsi-
17 bility of parents and ensuring that families of
18 such children have meaningful opportunities to
19 participate in the education of their children at
20 school and at home;

21 “(C) coordinating this Act with other local,
22 State, and Federal school improvement efforts,
23 including efforts under the Elementary and
24 Secondary Education Act of 1965, in order to
25 ensure that children with disabilities benefit

1 from such efforts and that special education
2 can become a service for such children rather
3 than a place where they are sent;

4 “(D) supporting high-quality, intensive
5 professional development for personnel who
6 work with children with disabilities;

7 “(E) providing incentives for scientifically
8 based reading programs and prereferral inter-
9 vention services to reduce the need to label chil-
10 dren as disabled in order to address their learn-
11 ing needs;

12 “(F) focusing resources on teaching and
13 learning while reducing paperwork and require-
14 ments that do not assist in improving edu-
15 cational results; and

16 “(G) supporting the development and use
17 of technology, including assistive technology de-
18 vices and services, to maximize accessibility for
19 children with disabilities.

20 “(5) While States, local educational agencies,
21 and educational service agencies are primarily re-
22 sponsible for providing an education for all children
23 with disabilities, it is in the national interest that
24 the Federal Government has a supporting role in as-
25 sisting State and local efforts to educate children

1 with disabilities in order to improve results for such
2 children and to ensure equal protection of the law.

3 “(6) A more equitable allocation of resources is
4 essential for the Federal Government to meet its re-
5 sponsibility to provide an equal educational oppor-
6 tunity for all individuals.

7 “(7)(A) The Federal Government must respond
8 to the growing needs of an increasingly diverse soci-
9 ety.

10 “(B) America’s ethnic profile is rapidly chang-
11 ing. In the year 2000, nearly one of every three per-
12 sons in America was a member of a minority group
13 or was limited English proficient.

14 “(C) Minority children comprise an increasing
15 percentage of public school students.

16 “(D) With such changing demographics, re-
17 cruitment efforts for special education personnel
18 should focus on increasing the participation of mi-
19 norities in the teaching profession in order to pro-
20 vide appropriate role models with sufficient knowl-
21 edge to address the special education needs of these
22 students.

23 “(8)(A) The limited English proficient popu-
24 lation is the fastest growing in our Nation, and the
25 growth is occurring in many parts of our Nation.

1 “(B) Studies have documented apparent dis-
2 crepancies in the levels of referral and placement of
3 limited English proficient children in special edu-
4 cation.

5 “(C) This poses a special challenge for special
6 education in the referral, assessment, and provision
7 of services for our Nation’s students from non-
8 English language backgrounds.

9 “(9)(A) Greater efforts are needed to prevent
10 the intensification of problems connected with
11 mislabeling and high dropout rates among minority
12 children with disabilities.

13 “(B) More minority children continue to be
14 served in special education than would be expected
15 from the percentage of minority students in the gen-
16 eral school population.

17 “(C) African American children are overidenti-
18 fied as having mental retardation and emotional dis-
19 turbance at rates greater than their white counter-
20 parts.

21 “(D) In the 1998–99 school year, African
22 American children represented just 14.8 percent of
23 the population aged 6 through 21, but comprised
24 20.2 percent of all children with disabilities.

1 “(E) Studies have found that schools with pre-
2 dominantly Caucasian students and teachers have
3 placed disproportionately high numbers of their mi-
4 nority students into special education.

5 “(10)(A) As the number of minority students in
6 special education increases, the number of minority
7 teachers and related services personnel produced in
8 colleges and universities continues to decrease.

9 “(B) The opportunity for full participation by
10 minority individuals, organizations, and historically
11 black colleges and universities in awards for grants
12 and contracts, boards of organizations receiving as-
13 sistance under this Act, peer review panels, and
14 training of professionals in the area of special edu-
15 cation is essential to obtain greater success in the
16 education of minority children with disabilities.

17 “(d) PURPOSES.—The purposes of this title are—

18 “(1)(A) to ensure that all children with disabil-
19 ities have available to them a free appropriate public
20 education that emphasizes special education and re-
21 lated services designed to meet their unique needs
22 and prepare them for further education, employ-
23 ment, and independent living;

1 “(B) to ensure that the rights of children with
2 disabilities and parents of such children are pro-
3 tected; and

4 “(C) to assist States, localities, educational
5 service agencies, and Federal agencies to provide for
6 the education of all children with disabilities;

7 “(2) to assist States in the implementation of
8 a statewide, comprehensive, coordinated, multidisci-
9 plinary, interagency system of early intervention
10 services for infants and toddlers with disabilities and
11 their families;

12 “(3) to ensure that educators and parents have
13 the necessary tools to improve educational results for
14 children with disabilities by supporting system im-
15 provement activities; coordinated research and per-
16 sonnel preparation; coordinated technical assistance,
17 dissemination, and support; and technology develop-
18 ment and media services; and

19 “(4) to assess, and ensure the effectiveness of,
20 efforts to educate children with disabilities.

21 **“SEC. 602. DEFINITIONS.**

22 “Except as otherwise provided, as used in this Act:

23 “(1) ASSISTIVE TECHNOLOGY DEVICE.—The
24 term ‘assistive technology device’ means any item,
25 piece of equipment, or product system, whether ac-

1 quired commercially off the shelf, modified, or cus-
2 tomized, that is used to increase, maintain, or im-
3 prove functional capabilities of a child with a dis-
4 ability.

5 “(2) ASSISTIVE TECHNOLOGY SERVICE.—The
6 term ‘assistive technology service’ means any service
7 that directly assists a child with a disability in the
8 selection, acquisition, or use of an assistive tech-
9 nology device. Such term includes—

10 “(A) the evaluation of the needs of such
11 child, including a functional evaluation of the
12 child in the child’s customary environment;

13 “(B) purchasing, leasing, or otherwise pro-
14 viding for the acquisition of assistive technology
15 devices by such child;

16 “(C) selecting, designing, fitting, custom-
17 izing, adapting, applying, maintaining, repair-
18 ing, or replacing of assistive technology devices;

19 “(D) coordinating and using other thera-
20 pies, interventions, or services with assistive
21 technology devices, such as those associated
22 with existing education and rehabilitation plans
23 and programs;

1 “(E) training or technical assistance for
2 such child, or, where appropriate, the family of
3 such child; and

4 “(F) training or technical assistance for
5 professionals (including individuals providing
6 education and rehabilitation services), employ-
7 ers, or other individuals who provide services to,
8 employ, or are otherwise substantially involved
9 in the major life functions of such child.

10 “(3) CHILD WITH A DISABILITY.—

11 “(A) IN GENERAL.—The term ‘child with a
12 disability’ means a child—

13 “(i) with mental retardation, hearing
14 impairments (including deafness), speech
15 or language impairments, visual impair-
16 ments (including blindness), serious emo-
17 tional disturbance (hereinafter referred to
18 as ‘emotional disturbance’), orthopedic im-
19 pairments, autism, traumatic brain injury,
20 other health impairments, or specific learn-
21 ing disabilities; and

22 “(ii) who, by reason thereof, needs
23 special education and related services.

24 “(B) CHILD AGED 3 THROUGH 9.—The
25 term ‘child with a disability’ for a child aged 3

1 through 9 or any subset of that age range, in-
2 cluding ages 3 through 5, may, at the discretion
3 of the State and the local educational agency,
4 include a child—

5 “(i) experiencing developmental
6 delays, as defined by the State and as
7 measured by appropriate diagnostic instru-
8 ments and procedures, in one or more of
9 the following areas: physical development,
10 cognitive development, communication de-
11 velopment, social or emotional develop-
12 ment, or adaptive development; and

13 “(ii) who, by reason thereof, needs
14 special education and related services.

15 “(4) EDUCATIONAL SERVICE AGENCY.—The
16 term ‘educational service agency’—

17 “(A) means a regional public multiservice
18 agency—

19 “(i) authorized by State law to de-
20 velop, manage, and provide services or pro-
21 grams to local educational agencies; and

22 “(ii) recognized as an administrative
23 agency for purposes of the provision of
24 special education and related services pro-

1 vided within public elementary and sec-
2 ondary schools of the State; and

3 “(B) includes any other public institution
4 or agency having administrative control and di-
5 rection over a public elementary or secondary
6 school.

7 “(5) ELEMENTARY SCHOOL.—The term ‘ele-
8 mentary school’ means a nonprofit institutional day
9 or residential school that provides elementary edu-
10 cation, as determined under State law.

11 “(6) EQUIPMENT.—The term ‘equipment’ in-
12 cludes—

13 “(A) machinery, utilities, and built-in
14 equipment and any necessary enclosures or
15 structures to house such machinery, utilities, or
16 equipment; and

17 “(B) all other items necessary for the
18 functioning of a particular facility as a facility
19 for the provision of educational services, includ-
20 ing items such as instructional equipment and
21 necessary furniture; printed, published, and
22 audio-visual instructional materials; tele-
23 communications, sensory, and other techno-
24 logical aids and devices; and books, periodicals,
25 documents, and other related materials.

1 “(7) EXCESS COSTS.—The term ‘excess costs’
2 means those costs that are in excess of the average
3 annual per-student expenditure in a local edu-
4 cational agency during the preceding school year for
5 an elementary or secondary school student, as may
6 be appropriate, and which shall be computed after
7 deducting—

8 “(A) amounts received—

9 “(i) under part B of this title;

10 “(ii) under part A of title I of the El-
11 ementary and Secondary Education Act of
12 1965; and

13 “(iii) under title III of that Act; and

14 “(B) any State or local funds expended for
15 programs that would qualify for assistance
16 under any of the provisions of law described in
17 subparagraph (A).

18 “(8) FREE APPROPRIATE PUBLIC EDU-
19 CATION.—The term ‘free appropriate public edu-
20 cation’ means special education and related services
21 that—

22 “(A) have been provided at public expense,
23 under public supervision and direction, and
24 without charge;

1 “(B) meet the standards of the State edu-
2 cational agency;

3 “(C) include an appropriate preschool, ele-
4 mentary, or secondary school education in the
5 State involved that is reasonably calculated to
6 provide educational benefit to enable the child
7 with a disability to access the general cur-
8 riculum; and

9 “(D) are provided in conformity with the
10 individualized education program required
11 under section 614(d).

12 “(9) HIGHLY QUALIFIED.—The term ‘highly
13 qualified’ has the same meaning as that term in sec-
14 tion 9101 of the Elementary and Secondary Edu-
15 cation Act of 1965.

16 “(10) INDIAN.—The term ‘Indian’ means an in-
17 dividual who is a member of an Indian tribe.

18 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
19 means any Federal or State Indian tribe, band,
20 rancheria, pueblo, colony, or community, including
21 any Alaska Native village or regional village corpora-
22 tion (as defined in or established under the Alaska
23 Native Claims Settlement Act).

24 “(12) INDIVIDUALIZED EDUCATION PRO-
25 GRAM.—The term ‘individualized education program’

1 or 'IEP' means a written statement for each child
2 with a disability that is developed, reviewed, and re-
3 vised in accordance with section 614(d).

4 “(13) INDIVIDUALIZED FAMILY SERVICE
5 PLAN.—The term ‘individualized family service plan’
6 has the meaning given such term in section 636.

7 “(14) INFANT OR TODDLER WITH A DIS-
8 ABILITY.—The term ‘infant or toddler with a dis-
9 ability’ has the meaning given such term in section
10 632.

11 “(15) INSTITUTION OF HIGHER EDUCATION.—
12 The term ‘institution of higher education’—

13 “(A) has the meaning given that term in
14 subsection (a) or (b) of section 101 of the
15 Higher Education Act of 1965; and

16 “(B) also includes any community college
17 receiving funding from the Secretary of the In-
18 terior under the Tribally Controlled Community
19 College Assistance Act of 1978.

20 “(16) LOCAL EDUCATIONAL AGENCY.—

21 “(A) The term ‘local educational agency’
22 means a public board of education or other pub-
23 lic authority legally constituted within a State
24 for either administrative control or direction of,
25 or to perform a service function for, public ele-

1 mentary or secondary schools in a city, county,
2 township, school district, or other political sub-
3 division of a State, or for such combination of
4 school districts or counties as are recognized in
5 a State as an administrative agency for its pub-
6 lic elementary or secondary schools.

7 “(B) The term includes—

8 “(i) an educational service agency, as
9 defined in paragraph (4); and

10 “(ii) any other public institution or
11 agency having administrative control and
12 direction of a public elementary or sec-
13 ondary school.

14 “(C) The term includes an elementary or
15 secondary school funded by the Bureau of In-
16 dian Affairs, but only to the extent that such
17 inclusion makes the school eligible for programs
18 for which specific eligibility is not provided to
19 the school in another provision of law and the
20 school does not have a student population that
21 is smaller than the student population of the
22 local educational agency receiving assistance
23 under this Act with the smallest student popu-
24 lation, except that the school shall not be sub-

1 ject to the jurisdiction of any State educational
2 agency other than the Bureau of Indian Affairs.

3 “(17) NATIVE LANGUAGE.—The term ‘native
4 language’, when used with reference to an individual
5 of limited English proficiency, means the language
6 normally used by the individual, or, in the case of
7 a child, the language normally used by the parents
8 of the child.

9 “(18) NONPROFIT.—The term ‘nonprofit’, as
10 applied to a school, agency, organization, or institu-
11 tion, means a school, agency, organization, or insti-
12 tution owned and operated by one or more nonprofit
13 corporations or associations no part of the net earn-
14 ings of which inures, or may lawfully inure, to the
15 benefit of any private shareholder or individual.

16 “(19) OUTLYING AREA.—The term ‘outlying
17 area’ means the United States Virgin Islands,
18 Guam, American Samoa, and the Commonwealth of
19 the Northern Mariana Islands.

20 “(20) PARENT.—The term ‘parent’—

21 “(A) includes a legal guardian; and

22 “(B) except as used in sections 615(b)(2)
23 and 639(a)(5), includes an individual assigned
24 under either of those sections to be a surrogate
25 parent.

1 “(21) PARENT ORGANIZATION.—The term ‘par-
2 ent organization’ has the meaning given that term in
3 section 672(g).

4 “(22) PARENT TRAINING AND INFORMATION
5 CENTER.—The term ‘parent training and informa-
6 tion center’ means a center assisted under sections
7 672 and 673.

8 “(23) RELATED SERVICES.—The term ‘related
9 services’ means transportation, and such develop-
10 mental, corrective, and other supportive services (in-
11 cluding speech-language pathology and audiology
12 services, psychological services, physical and occupa-
13 tional therapy, recreation, including therapeutic
14 recreation, social work services, counseling services,
15 including rehabilitation counseling, orientation and
16 mobility services, and medical services, except that
17 such medical services shall be for diagnostic and
18 evaluation purposes only) as may be required to as-
19 sist a child with a disability to benefit from special
20 education, and includes the early identification and
21 assessment of disabling conditions in children.

22 “(24) SECONDARY SCHOOL.—The term ‘sec-
23 ondary school’ means a nonprofit institutional day or
24 residential school that provides secondary education,

1 as determined under State law, except that it does
2 not include any education beyond grade 12.

3 “(25) SECRETARY.—The term ‘Secretary’
4 means the Secretary of Education.

5 “(26) SPECIAL EDUCATION.—The term ‘special
6 education’ means specially designed instruction, at
7 no cost to parents, to meet the unique needs of a
8 child with a disability, including—

9 “(A) instruction conducted in the class-
10 room, in the home, in hospitals and institutions,
11 and in other settings; and

12 “(B) instruction in physical education.

13 “(27) SPECIFIC LEARNING DISABILITY.—

14 “(A) IN GENERAL.—The term ‘specific
15 learning disability’ means a disorder in one or
16 more of the basic psychological processes in-
17 volved in understanding or in using language,
18 spoken or written, which disorder may manifest
19 itself in imperfect ability to listen, think, speak,
20 read, write, spell, or do mathematical calcula-
21 tions.

22 “(B) DISORDERS INCLUDED.—Such term
23 includes such conditions as perceptual disabili-
24 ties, brain injury, minimal brain dysfunction,
25 dyslexia, and developmental aphasia.

1 “(C) DISORDERS NOT INCLUDED.—Such
2 term does not include a learning problem that
3 is primarily the result of visual, hearing, or
4 motor disabilities, of mental retardation, of
5 emotional disturbance, or of environmental, cul-
6 tural, or economic disadvantage.

7 “(28) STATE.—The term ‘State’ means each of
8 the 50 States, the District of Columbia, the Com-
9 monwealth of Puerto Rico, and each of the outlying
10 areas.

11 “(29) STATE EDUCATIONAL AGENCY.—The
12 term ‘State educational agency’ means the State
13 board of education or other agency or officer pri-
14 marily responsible for the State supervision of public
15 elementary and secondary schools, or, if there is no
16 such officer or agency, an officer or agency des-
17 ignated by the Governor or by State law.

18 “(30) SUPPLEMENTARY AIDS AND SERVICES.—
19 The term ‘supplementary aids and services’ means
20 aids, services, and other supports that are provided
21 in regular education classes or other education-re-
22 lated settings to enable children with disabilities to
23 be educated with nondisabled children to the max-
24 imum extent appropriate in accordance with section
25 612(a)(5).

1 “(31) TRANSITION SERVICES.—The term ‘tran-
2 sition services’ means a coordinated set of activities
3 for a child with a disability that—

4 “(A) is designed within a results-oriented
5 process, that is focused on improving the aca-
6 demic and developmental achievement of the
7 child with a disability to facilitate the child’s
8 move from school to post-school activities, in-
9 cluding post-secondary education, vocational
10 training, integrated employment (including sup-
11 ported employment), continuing and adult edu-
12 cation, adult services, independent living, or
13 community participation;

14 “(B) is based upon the individual child’s
15 needs, taking into account the child’s skills,
16 preferences, and interests; and

17 “(C) includes instruction, related services,
18 community experiences, the development of em-
19 ployment and other post-school adult living ob-
20 jectives, and, when appropriate, acquisition of
21 daily living skills and functional vocational eval-
22 uation.

23 **“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

24 “(a) ESTABLISHMENT.—There shall be, within the
25 Office of Special Education and Rehabilitative Services in

1 the Department of Education, an Office of Special Edu-
2 cation Programs, which shall be the principal agency in
3 such Department for administering and carrying out this
4 Act and other programs and activities concerning the edu-
5 cation of children with disabilities.

6 “(b) DIRECTOR.—The Office established under sub-
7 section (a) shall be headed by a Director who shall be se-
8 lected by the Secretary and shall report directly to the As-
9 sistant Secretary for Special Education and Rehabilitative
10 Services.

11 “(c) VOLUNTARY AND UNCOMPENSATED SERV-
12 ICES.—Notwithstanding section 1342 of title 31, United
13 States Code, the Secretary is authorized to accept vol-
14 untary and uncompensated services in furtherance of the
15 purposes of this Act.”.

16 **SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS**
17 **WITH DISABILITIES EDUCATION ACT.**

18 Sections 605 through 607 of the Individuals with
19 Disabilities Education Act (20 U.S.C. 1404–1406) are
20 amended to read as follows:

21 **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**
22 **OR ALTERATION OF FACILITIES.**

23 “(a) IN GENERAL.—If the Secretary determines that
24 a program authorized under this Act would be improved
25 by permitting program funds to be used to acquire appro-

1 priate equipment, or to construct new facilities or alter
2 existing facilities, the Secretary is authorized to allow the
3 use of those funds for those purposes.

4 “(b) COMPLIANCE WITH CERTAIN REGULATIONS.—
5 Any construction of new facilities or alteration of existing
6 facilities under subsection (a) shall comply with the re-
7 quirements of—

8 “(1) appendix A of part 36 of title 28, Code of
9 Federal Regulations (commonly known as the
10 ‘Americans with Disabilities Accessibility Guidelines
11 for Buildings and Facilities’); or

12 “(2) appendix A of part 101–19.6 of title 41,
13 Code of Federal Regulations (commonly known as
14 the ‘Uniform Federal Accessibility Standards’).

15 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**
16 **ITIES.**

17 “The Secretary shall ensure that each recipient of as-
18 sistance under this Act makes positive efforts to employ
19 and advance in employment qualified individuals with dis-
20 abilities, particularly as teachers, related services per-
21 sonnel, early intervention providers, and administrators,
22 in programs assisted under this Act.

1 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
2 **TIONS.**

3 “(a) IN GENERAL.—The Secretary may issue regula-
4 tions under this Act only to the extent that such regula-
5 tions are reasonably necessary to ensure that there is com-
6 pliance with the specific requirements of this Act.

7 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
8 Secretary may not implement, or publish in final form,
9 any regulation prescribed pursuant to this Act that
10 would—

11 “(1) violate or contradict any provision of this
12 Act; and

13 “(2) procedurally or substantively lessen the
14 protections provided to children with disabilities
15 under this Act, as embodied in regulations in effect
16 on July 20, 1983 (particularly as such protections
17 relate to parental consent to initial evaluation or ini-
18 tial placement in special education, least restrictive
19 environment, related services, timelines, attendance
20 of evaluation personnel at individualized education
21 program meetings, or qualifications of personnel),
22 except to the extent that such regulation reflects the
23 clear and unequivocal intent of the Congress in legis-
24 lation.

25 “(c) PUBLIC COMMENT PERIOD.—The Secretary
26 shall provide a public comment period of at least 60 days

1 on any regulation proposed under part B or part C of this
2 Act on which an opportunity for public comment is other-
3 wise required by law.

4 “(d) POLICY LETTERS AND STATEMENTS.—The Sec-
5 retary may not issue policy letters or other statements (in-
6 cluding on issues of national significance) that—

7 “(1) would violate or contradict any provision of
8 this Act; or

9 “(2) establish a rule that is required for compli-
10 ance with, and eligibility under, this Act without fol-
11 lowing the requirements of section 553 of title 5,
12 United States Code.

13 “(e) CORRESPONDENCE FROM DEPARTMENT OF
14 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
15 PART.—

16 “(1) IN GENERAL.—The Secretary shall, on a
17 quarterly basis, publish in the Federal Register, and
18 widely disseminate to interested entities through var-
19 ious additional forms of communication, a list of
20 correspondence from the Department of Education
21 received by individuals during the previous quarter
22 that describes the interpretations of the Department
23 of Education of this Act or the regulations imple-
24 mented pursuant to this Act.

1 “(2) ADDITIONAL INFORMATION.—For each
2 item of correspondence published in a list under
3 paragraph (1), the Secretary shall—

4 “(A) identify the topic addressed by the
5 correspondence and shall include such other
6 summary information as the Secretary deter-
7 mines to be appropriate; and

8 “(B) ensure that all such correspondence
9 is issued, where applicable, in compliance with
10 section 553 of title 5, United States Code.

11 “(f) EXPLANATION AND ASSURANCES.—Any written
12 response by the Secretary under subsection (e) regarding
13 a policy, question, or interpretation under this Act shall
14 include an explanation in the written response that the
15 response—

16 “(1) is issued, when required, in compliance
17 with the requirements of section 553 of title 5,
18 United States Code; and

19 “(2) is provided as informal guidance and rep-
20 resents only the interpretation by the Department of
21 Education of the applicable statutory or regulatory
22 requirements in the context of the specific facts pre-
23 sented in the original question.”.

1 **SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABIL-**
2 **ITIES EDUCATION ACT.**

3 Part A of the Individuals with Disabilities Education
4 Act (20 U.S.C. 1400 et seq.) is amended by adding at
5 the end the following:

6 **“SEC. 608. STATE ADMINISTRATION.**

7 “(a) RULEMAKING.—Each State that receives funds
8 under this Act shall—

9 “(1) ensure that any State rules, regulations,
10 and policies relating to this Act conform to the pur-
11 poses of this Act; and

12 “(2) minimize the number of rules, regulations,
13 and policies to which the State’s local educational
14 agencies and schools are subject to under this Act.

15 “(b) SUPPORT AND FACILITATION.—All State rules,
16 regulations, and policies relating to this Act shall support
17 and facilitate local educational agency and school-level sys-
18 temic reform designed to enable children with disabilities
19 to meet the challenging State student academic achieve-
20 ment standards.”.

21 **SEC. 104. GAO REPORTS.**

22 (a) PAPERWORK STUDY.—

23 (1) REVIEW.—The Comptroller General shall
24 conduct a review of all Federal requirements under
25 the Individuals with Disabilities Education Act, and
26 the requirements of a reasonable sample of State

1 and local educational agencies relating to such Act,
2 to determine which requirements result in excessive
3 paperwork completion burdens for teachers, related
4 services providers, and school administrators. As
5 part of such review, the Comptroller General shall
6 include recommendations to reduce or eliminate the
7 excessive paperwork burdens described in the pre-
8 ceding sentence.

9 (2) REPORT.—Not later than 2 years after the
10 date of the enactment of this Act, and once every 2
11 years thereafter, the Comptroller General shall pre-
12 pare and submit to the appropriate congressional
13 committees a report that contains the results of the
14 review under paragraph (1).

15 (b) DISABILITY DEFINITIONS.—

16 (1) REVIEW.—The Comptroller General of the
17 United States shall conduct a review of—

18 (A) variation among States in definitions,
19 and evaluation processes, relating to the provi-
20 sion of services under the Individuals with Dis-
21 abilities Education Act to children having con-
22 ditions described in section 602(a)(3) of such
23 Act using the terms “emotional disturbance”,
24 “other health impairments”, and “specific
25 learning disability”; and

1 (B) the degree to which these definitions
2 and evaluation processes conform to scientific,
3 peer-reviewed research.

4 (2) REPORT.—Not later than 2 years after the
5 date of the enactment of this Act, the Comptroller
6 General shall prepare and submit to the appropriate
7 congressional committees a report that contains the
8 results of the review under paragraph (1).

9 (c) DISTANCE LEARNING PROFESSIONAL DEVELOP-
10 MENT PROGRAMS.—

11 (1) STUDY.—The Comptroller General shall
12 conduct a study on existing or developing profes-
13 sional development programs for special education
14 personnel delivered through the use of technology
15 and distance learning.

16 (2) REPORT.—Not later than 2 years after the
17 date of the enactment of this Act, the Comptroller
18 General shall submit a report containing the find-
19 ings from the study conducted under paragraph (1)
20 to the appropriate congressional committees.

21 (d) LIMITED ENGLISH PROFICIENT CHILDREN WITH
22 DISABILITIES.—

23 (1) STUDY.—The Comptroller General shall
24 conduct a study on how limited English proficient

1 students are being served under the Individuals with
2 Disabilities Education Act.

3 (2) REPORT.—Not later than 2 years after the
4 date of the enactment of the Improving Education
5 Results for Children With Disabilities Act of 2003,
6 the Comptroller General of the United States shall
7 submit a report containing the findings from the
8 study conducted under paragraph (1) to the appro-
9 priate congressional committees.

10 (e) DEFINITION.—In this section, the term “appro-
11 priate congressional committees” means the Committee on
12 Education and the Workforce of the House of Representa-
13 tives and the Committee on Health, Education, Labor,
14 and Pensions of the Senate.

15 **TITLE II—ASSISTANCE FOR EDU-**
16 **CATION OF ALL CHILDREN**
17 **WITH DISABILITIES**

18 **SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**

19 **AUTHORIZATION OF APPROPRIATIONS.**

20 Section 611 of the Individuals with Disabilities Edu-
21 cation Act (20 U.S.C. 1411) is amended to read as follows:

22 **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**

23 **AUTHORIZATION OF APPROPRIATIONS.**

24 **“(a) GRANTS TO STATES.—**

1 “(1) PURPOSE OF GRANTS.—The Secretary
2 shall make grants to States and the outlying areas,
3 and provide funds to the Secretary of the Interior,
4 to assist them to provide special education and re-
5 lated services to children with disabilities in accord-
6 ance with this part.

7 “(2) MAXIMUM AMOUNTS.—The maximum
8 amount of the grant a State may receive under this
9 section for any fiscal year is—

10 “(A) the number of children with disabil-
11 ities in the State who are receiving special edu-
12 cation and related services—

13 “(i) aged 3 through 5 if the State is
14 eligible for a grant under section 619; and

15 “(ii) aged 6 through 21; multiplied by

16 “(B) 40 percent of the average per-pupil
17 expenditure in public elementary and secondary
18 schools in the United States.

19 “(3) LIMITATION.—Notwithstanding paragraph
20 (2), the maximum amount of the grant a State may
21 receive under this section for a fiscal year may not
22 be based on the number of children ages 3 through
23 17, inclusive, in excess of 13.5 percent of the num-
24 ber of all children in that age range in the State.

25 “(b) OUTLYING AREAS.—

1 “(1) FUNDS RESERVED.—From the amount ap-
2 propriated for any fiscal year under subsection (i),
3 the Secretary shall reserve not more than one per-
4 cent, which shall be used to provide assistance to the
5 outlying areas in accordance with their respective
6 populations of individuals aged 3 through 21.

7 “(2) SPECIAL RULE.—The provisions of Public
8 Law 95–134, permitting the consolidation of grants
9 by the outlying areas, shall not apply to funds pro-
10 vided to those areas under this section.

11 “(c) SECRETARY OF THE INTERIOR.—From the
12 amount appropriated for any fiscal year under subsection
13 (i), the Secretary shall reserve 1.226 percent to provide
14 assistance to the Secretary of the Interior in accordance
15 with subsection (h).

16 “(d) ALLOCATIONS TO STATES.—

17 “(1) IN GENERAL.—After reserving funds for
18 payments to the outlying areas and the Secretary of
19 the Interior under subsections (b) and (c), the Sec-
20 retary shall allocate the remaining amount among
21 the States in accordance with this subsection.

22 “(2) SPECIAL RULE FOR USE OF FISCAL YEAR
23 1999 AMOUNT.—If a State does not make a free ap-
24 propriate public education available to all children
25 with disabilities aged 3 through 5 in the State in

1 any fiscal year, the Secretary shall compute the
2 State's amount for fiscal year 1999, solely for the
3 purpose of calculating the State's allocation in the
4 subsequent year under paragraph (3) or (4), by sub-
5 tracting the amount allocated to the State for fiscal
6 year 1999 on the basis of those children.

7 “(3) INCREASE IN FUNDS.—If the amount
8 available for allocations to States under paragraph
9 (1) is greater than the amount allocated to the
10 States under this paragraph for the preceding fiscal
11 year, those allocations shall be calculated as follows:

12 “(A)(i) Except as provided in subpara-
13 graph (B), the Secretary shall allocate—

14 “(I) to each State the amount it re-
15 ceived for fiscal year 1999;

16 “(II) 85 percent of any remaining
17 funds to States on the basis of their rel-
18 ative populations of children aged 3
19 through 21 who are of the same age as
20 children with disabilities for whom the
21 State ensures the availability of a free ap-
22 propriate public education under this part;
23 and

24 “(III) 15 percent of those remaining
25 funds to States on the basis of their rel-

1 ative populations of children described in
2 subclause (II) who are living in poverty.

3 “(ii) For the purpose of making grants
4 under this paragraph, the Secretary shall use
5 the most recent population data, including data
6 on children living in poverty, that are available
7 and satisfactory to the Secretary.

8 “(B) Notwithstanding subparagraph (A),
9 allocations under this paragraph shall be sub-
10 ject to the following:

11 “(i) No State’s allocation shall be less
12 than its allocation for the preceding fiscal
13 year.

14 “(ii) No State’s allocation shall be less
15 than the greatest of—

16 “(I) the sum of—

17 “(aa) the amount it received
18 for fiscal year 1999; and

19 “(bb) one-third of one per-
20 cent of the amount by which the
21 amount appropriated under sub-
22 section (i) exceeds the amount
23 appropriated under this section
24 for fiscal year 1999;

25 “(II) the sum of—

1 “(aa) the amount it received
2 for the preceding fiscal year; and

3 “(bb) that amount multi-
4 plied by the percentage by which
5 the increase in the funds appro-
6 priated from the preceding fiscal
7 year exceeds 1.5 percent; or

8 “(III) the sum of—

9 “(aa) the amount it received
10 for the preceding fiscal year; and

11 “(bb) that amount multi-
12 plied by 90 percent of the per-
13 centage increase in the amount
14 appropriated from the preceding
15 fiscal year.

16 “(iii) Notwithstanding clause (ii), no
17 State’s allocation under this paragraph
18 shall exceed the sum of—

19 “(I) the amount it received for
20 the preceding fiscal year; and

21 “(II) that amount multiplied by
22 the sum of 1.5 percent and the per-
23 centage increase in the amount appro-
24 priated.

1 “(C) If the amount available for allocations
2 under this paragraph is insufficient to pay
3 those allocations in full, those allocations shall
4 be ratably reduced, subject to subparagraph
5 (B)(i).

6 “(4) DECREASE IN FUNDS.—If the amount
7 available for allocations to States under paragraph
8 (1) is less than the amount allocated to the States
9 under this section for the preceding fiscal year, those
10 allocations shall be calculated as follows:

11 “(A) If the amount available for allocations
12 is greater than the amount allocated to the
13 States for fiscal year 1999, each State shall be
14 allocated the sum of—

15 “(i) the amount it received for fiscal
16 year 1999; and

17 “(ii) an amount that bears the same
18 relation to any remaining funds as the in-
19 crease the State received for the preceding
20 fiscal year over fiscal year 1999 bears to
21 the total of all such increases for all
22 States.

23 “(B)(i) If the amount available for alloca-
24 tions is equal to or less than the amount allo-
25 cated to the States for fiscal year 1999, each

1 State shall be allocated the amount it received
2 for fiscal year 1999.

3 “(ii) If the amount available is insufficient
4 to make the allocations described in clause (i),
5 those allocations shall be ratably reduced.

6 “(e) STATE-LEVEL ACTIVITIES.—

7 “(1) IN GENERAL.—

8 “(A) Each State may retain not more than
9 the amount described in subparagraph (B) for
10 administration and other State-level activities in
11 accordance with paragraphs (2), (3), and (4).

12 “(B) For each fiscal year, the Secretary
13 shall determine and report to the State edu-
14 cational agency an amount that is 25 percent of
15 the amount the State received under this sec-
16 tion for fiscal year 1997, cumulatively adjusted
17 by the Secretary for each succeeding fiscal year
18 by the lesser of—

19 “(i) the percentage increase, if any,
20 from the preceding fiscal year in the
21 State’s allocation under this section; or

22 “(ii) the rate of inflation, as measured
23 by the percentage increase, if any, from
24 the preceding fiscal year in the Consumer
25 Price Index For All Urban Consumers,

1 published by the Bureau of Labor Statis-
2 tics of the Department of Labor.

3 “(C) A State may use funds it retains
4 under subparagraph (A) without regard to—

5 “(i) the prohibition on commingling of
6 funds in section 612(a)(18)(B); and

7 “(ii) the prohibition on supplanting
8 other funds in section 612(a)(18)(C).

9 “(2) STATE ADMINISTRATION.—

10 “(A) For the purpose of administering this
11 part, including section 619 (including the co-
12 ordination of activities under this part with,
13 and providing technical assistance to, other pro-
14 grams that provide services to children with dis-
15 abilities)—

16 “(i) each State may use not more
17 than 20 percent of the maximum amount
18 it may retain under paragraph (1)(A) for
19 any fiscal year or \$750,000, whichever is
20 greater; and

21 “(ii) each outlying area may use up to
22 5 percent of the amount it receives under
23 this section for any fiscal year or \$35,000
24 (adjusted by the cumulative rate of infla-
25 tion since fiscal year 1998, as measured by

1 the percentage increase, if any, in the Con-
2 sumer Price Index For All Urban Con-
3 sumers, published by the Bureau of Labor
4 Statistics of the Department of Labor),
5 whichever is greater.

6 “(B) Funds described in subparagraph (A)
7 may also be used for the administration of part
8 C of this Act, if the State educational agency
9 is the lead agency for the State under that
10 part.

11 “(3) HIGH COST SPECIAL EDUCATION AND RE-
12 LATED SERVICES.—Each State may use not more
13 than 40 percent of the maximum amount it may re-
14 tain under paragraph (1)(A) for any fiscal year to
15 establish and implement cost or risk sharing funds,
16 consortia, or cooperatives to assist local educational
17 agencies in providing high cost special education and
18 related services.

19 “(4) OTHER STATE-LEVEL ACTIVITIES.—Each
20 State shall use any funds it retains under paragraph
21 (1) and does not use under paragraph (2) or (3) for
22 any of the following:

23 “(A) Support and direct services, including
24 technical assistance and personnel development
25 and training.

1 “(B) Administrative costs of monitoring
2 and complaint investigation.

3 “(C) To establish and implement the medi-
4 ation and voluntary binding arbitration proc-
5 esses required by sections 612(a)(17) and
6 615(e), including providing for the costs of me-
7 diators, arbitrators, and support personnel.

8 “(D) To assist local educational agencies
9 in meeting personnel shortages.

10 “(E) Activities at the State and local levels
11 to meet the performance goals established by
12 the State under section 612(a)(15) and to sup-
13 port implementation of the State plan under
14 subpart 1 of part D if the State receives funds
15 under that subpart.

16 “(F) To support paperwork reduction ac-
17 tivities, including expanding the appropriate use
18 of technology in the IEP process under this
19 part.

20 “(G) To develop and maintain a com-
21 prehensive, coordinated, prereferral educational
22 support system for students in kindergarten
23 through grade 12 (with a particular emphasis
24 on students in kindergarten through grade 3)
25 who are not enrolled in special education but

1 who need additional academic and behavioral
2 support to succeed in a general education envi-
3 ronment.

4 “(H) To support capacity building activi-
5 ties and improve the delivery of services by local
6 educational agencies to improve results for chil-
7 dren with disabilities.

8 “(I) For subgrants to local educational
9 agencies for the purposes described in para-
10 graph (5)(A).

11 “(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL
12 AGENCIES FOR ACCOUNTABILITY.—In any fiscal year
13 in which the percentage increase in the State’s allo-
14 cation under this section exceeds the rate of inflation
15 (as measured by the percentage increase, if any,
16 from the preceding fiscal year in the Consumer Price
17 Index For All Urban Consumers, published by the
18 Bureau of Labor Statistics of the Department of
19 Labor), each State shall reserve, from its allocation
20 under this section, the amount described in subpara-
21 graph (B) to make subgrants to local educational
22 agencies, unless that amount is less than \$100,000,
23 to provide technical assistance and direct services to
24 local educational agencies identified as being in need
25 of improvement under section 1116 of the Elemen-

1 tary and Secondary Education Act of 1965 on the
2 basis, in whole or in part, of the assessment results
3 of the disaggregated subgroup of students with dis-
4 abilities, including providing professional develop-
5 ment to special and regular education teachers,
6 based on scientifically based research to improve
7 educational instruction.

8 “(B) MAXIMUM SUBGRANT.—For each fiscal
9 year, the amount referred to in subparagraph (A)
10 is—

11 “(i) the maximum amount the State was
12 allowed to retain under paragraph (1)(A) for
13 the prior fiscal year, or for fiscal year 1998, 25
14 percent of the State’s allocation for fiscal year
15 1997 under this section; multiplied by

16 “(ii) the difference between the percentage
17 increase in the State’s allocation under this sec-
18 tion and the rate of inflation, as measured by
19 the percentage increase, if any, from the pre-
20 ceeding fiscal year in the Consumer Price Index
21 For All Urban Consumers, published by the
22 Bureau of Labor Statistics of the Department
23 of Labor.

24 “(6) REPORT ON USE OF FUNDS.—As part of
25 the information required to be submitted to the Sec-

1 retary under section 612, each State shall annually
2 describe—

3 “(A) how amounts retained under para-
4 graph (1) will be used to meet the requirements
5 of this part;

6 “(B) how those amounts will be allocated
7 among the activities described in this subsection
8 to meet State priorities based on input from
9 local educational agencies; and

10 “(C) the percentage of those amounts, if
11 any, that will be distributed to local educational
12 agencies by formula.

13 “(f) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
14 CIES.—

15 “(1) SUBGRANTS REQUIRED.—Each State that
16 receives a grant under this section for any fiscal
17 year shall distribute any funds it does not retain
18 under subsection (e) to local educational agencies,
19 including public charter schools that operate as local
20 educational agencies, in the State that have estab-
21 lished their eligibility under section 613, for use in
22 accordance with this part.

23 “(2) PROCEDURE FOR ALLOCATIONS TO LOCAL
24 EDUCATIONAL AGENCIES.—For each fiscal year for
25 which funds are allocated to States under subsection

1 (e), each State shall allocate funds under paragraph
2 (1) as follows:

3 “(A) BASE PAYMENTS.—The State shall
4 first award each agency described in paragraph
5 (1) the amount that agency would have received
6 under this section for fiscal year 1999, if the
7 State had distributed 75 percent of its grant for
8 that year under section 611(d), as then in ef-
9 fect.

10 “(B) ALLOCATION OF REMAINING
11 FUNDS.—After making allocations under sub-
12 paragraph (A), the State shall—

13 “(i) allocate 85 percent of any re-
14 maining funds to those agencies on the
15 basis of the relative numbers of children
16 enrolled in public and private elementary
17 and secondary schools within the agency’s
18 jurisdiction; and

19 “(ii) allocate 15 percent of those re-
20 maining funds to those agencies in accord-
21 ance with their relative numbers of chil-
22 dren living in poverty, as determined by
23 the State educational agency.

24 “(3) REALLOCATION OF FUNDS.—If a State
25 educational agency determines that a local edu-

1 cational agency is adequately providing a free appro-
2 priate public education to all children with disabil-
3 ities residing in the area served by that agency with
4 State and local funds, the State educational agency
5 may reallocate any portion of the funds under this
6 part that are not needed by that local agency to pro-
7 vide a free appropriate public education to other
8 local educational agencies in the State that are not
9 adequately providing special education and related
10 services to all children with disabilities residing in
11 the areas they serve.

12 “(4) SPECIAL RULE FOR INCREASED FUNDS.—

13 “(A) IN GENERAL.—If the amount avail-
14 able for allocations to States under subsection
15 (d)(1) for a fiscal year is equal to or greater
16 than the amount allocated to States for fiscal
17 year 2003, then each State may retain not
18 more than the amount of funds it had reserved
19 under subsection (e)(1)(B) for fiscal year 2003.

20 “(B) EXCEPTION.—In any fiscal year in
21 which the percentage increase of the amount
22 available for allocations to States under sub-
23 section (d)(1) is equal to or greater than the
24 rate of inflation, each State may increase its al-
25 location under subsection (e)(1)(B) by the

1 amount allowed under subsection (e)(4)(B), for
2 the sole purpose of making grants under sub-
3 section (e)(4)(A).

4 “(g) DEFINITIONS.—For the purpose of this sec-
5 tion—

6 “(1) the term ‘average per-pupil expenditure in
7 public elementary and secondary schools in the
8 United States’ means—

9 “(A) without regard to the source of
10 funds—

11 “(i) the aggregate current expendi-
12 tures, during the second fiscal year pre-
13 ceding the fiscal year for which the deter-
14 mination is made (or, if satisfactory data
15 for that year are not available, during the
16 most recent preceding fiscal year for which
17 satisfactory data are available) of all local
18 educational agencies in the 50 States and
19 the District of Columbia); plus

20 “(ii) any direct expenditures by the
21 State for the operation of those agencies;
22 divided by

23 “(B) the aggregate number of children in
24 average daily attendance to whom those agen-

1 cies provided free public education during that
2 preceding year; and

3 “(2) the term ‘State’ means each of the 50
4 States, the District of Columbia, and the Common-
5 wealth of Puerto Rico.

6 “(h) USE OF AMOUNTS BY SECRETARY OF THE IN-
7 TERIOR.—

8 “(1) PROVISION OF AMOUNTS FOR ASSIST-
9 ANCE.—

10 “(A) IN GENERAL.—The Secretary of Edu-
11 cation shall provide amounts to the Secretary of
12 the Interior to meet the need for assistance for
13 the education of children with disabilities on
14 reservations aged 5 to 21, inclusive, enrolled in
15 elementary and secondary schools for Indian
16 children operated or funded by the Secretary of
17 the Interior. The amount of such payment for
18 any fiscal year shall be equal to 80 percent of
19 the amount allotted under subsection (c) for
20 that fiscal year. Of the amount described in the
21 preceding sentence—

22 “(i) 80 percent shall be allocated to
23 such schools by July 1 of that fiscal year;
24 and

1 “(ii) 20 percent shall be allocated to
2 such schools by September 30 of that fiscal
3 year.

4 “(B) CALCULATION OF NUMBER OF CHIL-
5 DREN.—In the case of Indian students aged 3
6 to 5, inclusive, who are enrolled in programs af-
7 filiated with the Bureau of Indian Affairs (here-
8 after in this subsection referred to as ‘BIA’)
9 schools and that are required by the States in
10 which such schools are located to attain or
11 maintain State accreditation, and which schools
12 have such accreditation prior to the date of en-
13 actment of the Individuals with Disabilities
14 Education Act Amendments of 1991, the school
15 shall be allowed to count those children for the
16 purpose of distribution of the funds provided
17 under this paragraph to the Secretary of the
18 Interior. The Secretary of the Interior shall be
19 responsible for meeting all of the requirements
20 of this part for these children, in accordance
21 with paragraph (2).

22 “(C) ADDITIONAL REQUIREMENT.—With
23 respect to all other children aged 3 to 21, inclu-
24 sive, on reservations, the State educational
25 agency shall be responsible for ensuring that all

1 of the requirements of this part are imple-
2 mented.

3 “(2) SUBMISSION OF INFORMATION.—The Sec-
4 retary of Education may provide the Secretary of
5 the Interior amounts under paragraph (1) for a fis-
6 cal year only if the Secretary of the Interior submits
7 to the Secretary of Education information that—

8 “(A) demonstrates that the Department of
9 the Interior meets the appropriate require-
10 ments, as determined by the Secretary of Edu-
11 cation, of sections 612 (including monitoring
12 and evaluation activities) and 613;

13 “(B) includes a description of how the Sec-
14 retary of the Interior will coordinate the provi-
15 sion of services under this part with local edu-
16 cational agencies, tribes and tribal organiza-
17 tions, and other private and Federal service
18 providers;

19 “(C) includes an assurance that there are
20 public hearings, adequate notice of such hear-
21 ings, and an opportunity for comment afforded
22 to members of tribes, tribal governing bodies,
23 and affected local school boards before the
24 adoption of the policies, programs, and proce-
25 dures described in subparagraph (A);

1 “(D) includes an assurance that the Sec-
2 retary of the Interior will provide such informa-
3 tion as the Secretary of Education may require
4 to comply with section 618;

5 “(E) includes an assurance that the Sec-
6 retary of the Interior and the Secretary of
7 Health and Human Services have entered into
8 a memorandum of agreement, to be provided to
9 the Secretary of Education, for the coordination
10 of services, resources, and personnel between
11 their respective Federal, State, and local offices
12 and with State and local educational agencies
13 and other entities to facilitate the provision of
14 services to Indian children with disabilities re-
15 siding on or near reservations (such agreement
16 shall provide for the apportionment of respon-
17 sibilities and costs including, but not limited to,
18 child find, evaluation, diagnosis, remediation or
19 therapeutic measures, and (where appropriate)
20 equipment and medical or personal supplies as
21 needed for a child to remain in school or a pro-
22 gram); and

23 “(F) includes an assurance that the De-
24 partment of the Interior will cooperate with the
25 Department of Education in its exercise of

1 monitoring, enforcement, and oversight of this
2 application, and any agreements entered into
3 between the Secretary of the Interior and other
4 entities under this part, and will fulfill its du-
5 ties under this part.

6 Section 616(a) shall apply to the information de-
7 scribed in this paragraph.

8 “(3) PAYMENTS FOR EDUCATION AND SERVICES
9 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3
10 THROUGH 5.—

11 “(A) IN GENERAL.—With funds appro-
12 priated under subsection (i), the Secretary of
13 Education shall make payments to the Sec-
14 retary of the Interior to be distributed to tribes
15 or tribal organizations (as defined under section
16 4 of the Indian Self-Determination and Edu-
17 cation Assistance Act) or consortia of the above
18 to provide for the coordination of assistance for
19 special education and related services for chil-
20 dren with disabilities aged 3 through 5 on res-
21 ervations served by elementary and secondary
22 schools for Indian children operated or funded
23 by the Department of the Interior. The amount
24 of such payments under subparagraph (B) for

1 any fiscal year shall be equal to 20 percent of
2 the amount allotted under subsection (c).

3 “(B) DISTRIBUTION OF FUNDS.—The Sec-
4 retary of the Interior shall distribute the total
5 amount of the payment under subparagraph
6 (A) by allocating to each tribe or tribal organi-
7 zation an amount based on the number of chil-
8 dren with disabilities ages 3 through 5 residing
9 on reservations as reported annually, divided by
10 the total of those children served by all tribes
11 or tribal organizations.

12 “(C) SUBMISSION OF INFORMATION.—To
13 receive a payment under this paragraph, the
14 tribe or tribal organization shall submit such
15 figures to the Secretary of the Interior as re-
16 quired to determine the amounts to be allocated
17 under subparagraph (B). This information shall
18 be compiled and submitted to the Secretary of
19 Education.

20 “(D) USE OF FUNDS.—The funds received
21 by a tribe or tribal organization shall be used
22 to assist in child find, screening, and other pro-
23 cedures for the early identification of children
24 aged 3 through 5, parent training, and the pro-
25 vision of direct services. These activities may be

1 carried out directly or through contracts or co-
2 operative agreements with the BIA, local edu-
3 cational agencies, and other public or private
4 nonprofit organizations. The tribe or tribal or-
5 ganization is encouraged to involve Indian par-
6 ents in the development and implementation of
7 these activities. The above entities shall, as ap-
8 propriate, make referrals to local, State, or
9 Federal entities for the provision of services or
10 further diagnosis.

11 “(E) ANNUAL REPORT.—To be eligible to
12 receive a grant pursuant to subparagraph (A),
13 the tribe or tribal organization shall provide to
14 the Secretary of the Interior an annual report
15 of activities undertaken under this paragraph,
16 including the number of contracts and coopera-
17 tive agreements entered into, the number of
18 children contacted and receiving services for
19 each year, and the estimated number of chil-
20 dren needing services during the year following
21 the one in which the report is made. The Sec-
22 retary of the Interior shall include a summary
23 of this information on an annual basis in the
24 report to the Secretary of Education required
25 under this subsection. The Secretary of Edu-

1 cation may require any additional information
2 from the Secretary of the Interior.

3 “(F) PROHIBITIONS.—None of the funds
4 allocated under this paragraph may be used by
5 the Secretary of the Interior for administrative
6 purposes, including child count and the provi-
7 sion of technical assistance.

8 “(4) PLAN FOR COORDINATION OF SERVICES.—
9 The Secretary of the Interior shall develop and im-
10 plement a plan for the coordination of services for
11 all Indian children with disabilities residing on res-
12 ervations covered under this Act. Such plan shall
13 provide for the coordination of services benefiting
14 these children from whatever source, including
15 tribes, the Indian Health Service, other BIA divi-
16 sions, and other Federal agencies. In developing the
17 plan, the Secretary of the Interior shall consult with
18 all interested and involved parties. It shall be based
19 on the needs of the children and the system best
20 suited for meeting those needs, and may involve the
21 establishment of cooperative agreements between the
22 BIA, other Federal agencies, and other entities. The
23 plan shall also be distributed upon request to States,
24 State and local educational agencies, and other
25 agencies providing services to infants, toddlers, and

1 children with disabilities, to tribes, and to other in-
2 terested parties.

3 “(5) ESTABLISHMENT OF ADVISORY BOARD.—

4 To meet the requirements of section 612(a)(22), the
5 Secretary of the Interior shall establish, under the
6 BIA, an advisory board composed of individuals in-
7 volved in or concerned with the education and provi-
8 sion of services to Indian infants, toddlers, children,
9 and youth with disabilities, including Indians with
10 disabilities, Indian parents or guardians of such chil-
11 dren, teachers, service providers, State and local
12 educational officials, representatives of tribes or trib-
13 al organizations, representatives from State Inter-
14 agency Coordinating Councils under section 641 in
15 States having reservations, and other members rep-
16 resenting the various divisions and entities of the
17 BIA. The chairperson shall be selected by the Sec-
18 retary of the Interior. The advisory board shall—

19 “(A) assist in the coordination of services
20 within the BIA and with other local, State, and
21 Federal agencies in the provision of education
22 for infants, toddlers, and children with disabil-
23 ities;

1 “(B) advise and assist the Secretary of the
2 Interior in the performance of the Secretary’s
3 responsibilities described in this subsection;

4 “(C) develop and recommend policies con-
5 cerning effective inter- and intra-agency collabo-
6 ration, including modifications to regulations,
7 and the elimination of barriers to inter- and
8 intra-agency programs and activities;

9 “(D) provide assistance and disseminate
10 information on best practices, effective program
11 coordination strategies, and recommendations
12 for improved educational programming for In-
13 dian infants, toddlers, and children with disabil-
14 ities; and

15 “(E) provide assistance in the preparation
16 of information required under paragraph
17 (2)(D).

18 “(6) ANNUAL REPORTS.—

19 “(A) IN GENERAL.—The advisory board
20 established under paragraph (5) shall prepare
21 and submit to the Secretary of the Interior and
22 to the Congress an annual report containing a
23 description of the activities of the advisory
24 board for the preceding year.

1 “(B) AVAILABILITY.—The Secretary of the
2 Interior shall make available to the Secretary of
3 Education the report described in subparagraph
4 (A).

5 “(i) AUTHORIZATION OF APPROPRIATIONS.—For the
6 purpose of carrying out this part, other than section 619,
7 there are authorized to be appropriated—

8 “(1) \$11,074,398,000 for fiscal year 2004;

9 “(2) \$13,574,398,000 for fiscal year 2005;

10 “(3) \$15,746,302,000 for fiscal year 2006;

11 “(4) \$17,918,205,000 for fiscal year 2007;

12 “(5) \$20,090,109,000 for fiscal year 2008;

13 “(6) \$22,262,307,000 for fiscal year 2009;

14 “(7) \$25,198,603,000 for fiscal year 2010; and

15 “(8) such sums as may be necessary for fiscal
16 year 2011 and each subsequent fiscal year.”.

17 **SEC. 202. STATE ELIGIBILITY.**

18 (a) IN GENERAL.—(1) Section 612(a) of the Individ-
19 uals with Disabilities Education Act (20 U.S.C. 1412(a))
20 is amended in the matter preceding paragraph (1) by
21 striking “demonstrates to the satisfaction of” and insert-
22 ing “reasonably demonstrates to”.

23 (2) Paragraphs (1) through (11) of section 612(a)
24 of the Individuals with Disabilities Education Act (20
25 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:

1 “(1) FREE APPROPRIATE PUBLIC EDU-
2 CATION.—

3 “(A) IN GENERAL.—A free appropriate
4 public education is available to all children with
5 disabilities residing in the State between the
6 ages of 3 and 21, inclusive, including children
7 with disabilities who have been suspended or ex-
8 pelled from school.

9 “(B) LIMITATION.—The obligation to
10 make a free appropriate public education avail-
11 able to all children with disabilities does not
12 apply with respect to children—

13 “(i) aged 3 through 5 and 18 through
14 21 in a State to the extent that its applica-
15 tion to those children would be inconsistent
16 with State law or practice, or the order of
17 any court, respecting the provision of pub-
18 lic education to children in those age
19 ranges; and

20 “(ii) aged 18 through 21 to the extent
21 that State law does not require that special
22 education and related services under this
23 part be provided to children with disabil-
24 ities who, in the educational placement

1 prior to their incarceration in an adult cor-
2 rectional facility—

3 “(I) were not actually identified
4 as being a child with a disability
5 under section 602(3) of this Act; or

6 “(II) did not have an individual-
7 ized education program under this
8 part.

9 “(2) FULL EDUCATIONAL OPPORTUNITY
10 GOAL.—The State has established a goal of pro-
11 viding full educational opportunity to all children
12 with disabilities and a detailed timetable for accom-
13 plishing that goal.

14 “(3) CHILD FIND.—

15 “(A) IN GENERAL.—All children with dis-
16 abilities residing in the State, including children
17 with disabilities attending private schools, re-
18 gardless of the severity of their disabilities, and
19 who are in need of special education and related
20 services, are identified, located, and evaluated
21 and a practical method is developed and imple-
22 mented to determine which children with dis-
23 abilities are currently receiving needed special
24 education and related services.

1 “(B) CONSTRUCTION.—Nothing in this
2 Act requires that children be classified by their
3 disability so long as each child who has a dis-
4 ability listed in section 602 and who, by reason
5 of that disability, needs special education and
6 related services is regarded as a child with a
7 disability under this part.

8 “(4) INDIVIDUALIZED EDUCATION PROGRAM.—
9 An individualized education program, or an individ-
10 ualized family service plan that meets the require-
11 ments of section 636(d), is developed, reviewed, and
12 revised for each child with a disability in accordance
13 with section 614(d).

14 “(5) LEAST RESTRICTIVE ENVIRONMENT.—

15 “(A) IN GENERAL.—To the maximum ex-
16 tent appropriate, children with disabilities, in-
17 cluding children in public or private institutions
18 or other care facilities, are educated with chil-
19 dren who are not disabled, and special classes,
20 separate schooling, or other removal of children
21 with disabilities from the regular educational
22 environment occurs only when the nature or se-
23 verity of the disability of a child is such that
24 education in regular classes with the use of sup-

1 plementary aids and services cannot be achieved
2 satisfactorily.

3 “(B) ADDITIONAL REQUIREMENT.—

4 “(i) IN GENERAL.—If the State uses a
5 funding mechanism by which the State dis-
6 tributes State funds on the basis of the
7 type of setting in which a child is served,
8 the funding mechanism does not result in
9 placements that violate the requirements of
10 subparagraph (A).

11 “(ii) ASSURANCE.—If the State does
12 not have policies and procedures to ensure
13 compliance with clause (i), the State shall
14 provide the Secretary an assurance that it
15 will revise the funding mechanism as soon
16 as feasible to ensure that such mechanism
17 does not result in such placements.

18 “(6) PROCEDURAL SAFEGUARDS.—

19 “(A) IN GENERAL.—Children with disabil-
20 ities and their parents are afforded the proce-
21 dural safeguards required by section 615.

22 “(B) ADDITIONAL PROCEDURAL SAFE-
23 GUARDS.—Procedures to ensure that testing
24 and evaluation materials and procedures uti-
25 lized for the purposes of evaluation and place-

1 ment of children with disabilities for services
2 under this Act will be selected and administered
3 so as not to be racially or culturally discrimina-
4 tory. Such materials or procedures shall be pro-
5 vided and administered in the child’s native lan-
6 guage or mode of communication, unless it
7 clearly is not feasible to do so, and no single
8 procedure shall be the sole criterion for deter-
9 mining an appropriate educational program for
10 a child.

11 “(7) EVALUATION.—Children with disabilities
12 are evaluated in accordance with subsections (a)
13 through (c) of section 614.

14 “(8) CONFIDENTIALITY.—Agencies in the State
15 comply with section 617(d) (relating to the confiden-
16 tiality of records and information).

17 “(9) TRANSITION FROM PART C TO PRESCHOOL
18 PROGRAMS.—Children participating in early inter-
19 vention programs assisted under part C, and who
20 will participate in preschool programs assisted under
21 this part, experience a smooth and effective transi-
22 tion to those preschool programs in a manner con-
23 sistent with section 637(a)(8). By the third birthday
24 of such a child, an individualized education program
25 or, if consistent with section 636(d), an individual-

1 ized family service plan, has been developed and is
2 being implemented for the child. The local edu-
3 cational agency will participate in transition plan-
4 ning conferences arranged by the designated lead
5 agency under section 637(a)(8).

6 “(10) CHILDREN IN PRIVATE SCHOOLS.—

7 “(A) CHILDREN ENROLLED IN PRIVATE
8 SCHOOLS BY THEIR PARENTS.—

9 “(i) IN GENERAL.—To the extent con-
10 sistent with the number and location of
11 children with disabilities in the State who
12 are enrolled by their parents in private ele-
13 mentary and secondary schools in the area
14 served by such agency, provision is made
15 for the participation of those children in
16 the program assisted or carried out under
17 this part by providing for such children
18 special education and related services in
19 accordance with the following require-
20 ments, unless the Secretary has arranged
21 for services to those children under sub-
22 section (f):

23 “(I) Amounts to be expended for
24 the provision of those services (includ-
25 ing direct services to parentally-placed

1 children) by a local educational agen-
2 cy shall be equal to a proportionate
3 amount of Federal funds made avail-
4 able under this part.

5 “(II) In calculating the propor-
6 tionate share of Federal funds, the
7 local educational agency, after timely
8 and meaningful consultation with rep-
9 resentatives of children with disabil-
10 ities parentally-placed in private
11 schools as described in clause (iii),
12 shall conduct a thorough and complete
13 child-find process to determine the
14 number of parentally-placed children
15 with disabilities attending private
16 schools located in the district.

17 “(III) Such services may be pro-
18 vided to children with disabilities on
19 the premises of private, including reli-
20 gious, schools, to the extent consistent
21 with law.

22 “(IV) State and local funds may
23 supplement and in no case shall sup-
24 plant the proportionate amount of

1 Federal funds required to be expended
2 under this paragraph.

3 “(V) Each local educational
4 agency maintains in its records and
5 provides to the State educational
6 agency the number of children evalu-
7 ated under this paragraph, the num-
8 ber of children determined to be chil-
9 dren with disabilities, and the number
10 of children served under this sub-
11 section.

12 “(ii) CHILD-FIND REQUIREMENT.—

13 “(I) IN GENERAL.—The require-
14 ments of paragraph (3) of this sub-
15 section (relating to child find) shall
16 apply with respect to children with
17 disabilities in the State who are en-
18 rolled in private, including religious,
19 elementary and secondary schools.

20 “(II) EQUITABLE PARTICIPA-
21 TION.—The child-find process must be
22 designed to ensure the equitable par-
23 ticipation of parentally-placed private
24 school children and an accurate count
25 of such children.

1 “(III) ACTIVITIES.—In carrying
2 out this clause, the local educational
3 agency, or where applicable, the State
4 educational agency, shall undertake
5 activities similar to those activities un-
6 dertaken for its public school children.

7 “(IV) COST.—The cost of car-
8 rying out this clause, including indi-
9 vidual evaluations, may not be consid-
10 ered in determining whether a local
11 education agency has met its obliga-
12 tions under clause (i).

13 “(V) COMPLETION PERIOD.—
14 Such child-find process shall be com-
15 pleted in a time period comparable to
16 that for other students attending pub-
17 lic schools in the local educational
18 agency.

19 “(iii) CONSULTATION.—To ensure
20 timely and meaningful consultation, a local
21 educational agency, or where appropriate,
22 a state educational agency, shall consult
23 with representatives of children with dis-
24 abilities parentally-placed in private schools
25 during the design and development of spe-

1 cial education and related services for
2 these children including—

3 “(I) the child-find process and
4 how parentally-placed private school
5 children suspected of having a dis-
6 ability can participate equitably, in-
7 cluding how parents, teachers, and
8 private school officials will be in-
9 formed of the process;

10 “(II) the determination of the
11 proportionate share of Federal funds
12 available to serve parentally-placed
13 private school children with disabil-
14 ities under this paragraph, including
15 the determination of how those funds
16 were calculated;

17 “(III) the consultation process
18 among the district, private school offi-
19 cials, and parents of parentally-placed
20 private school children with disabil-
21 ities including how such process will
22 operate throughout the school year to
23 ensure that parentally-placed children
24 with disabilities identified through the
25 child find process can meaningfully

1 participate in special education and
2 related services; and

3 “(IV) how, where, and by whom
4 special education and related services
5 will be provided for parentally-placed
6 private school children, including a
7 discussion of alternate service delivery
8 mechanisms, how such services will be
9 apportioned if funds are insufficient
10 to serve all children, and how and
11 when these decisions will be made.

12 “(iv) COMPLIANCE.—

13 “(I) IN GENERAL.—A private
14 school official shall have the right to
15 complain to the State educational
16 agency that the local educational
17 agency did not engage in consultation
18 that was meaningful and timely, or
19 did not give due consideration to the
20 views of the private school official.

21 “(II) PROCEDURE.—If the pri-
22 vate school official wishes to complain,
23 the official shall provide the basis of
24 the noncompliance with this section by
25 the local educational agency to the

1 State educational agency, and the
2 local educational agency shall forward
3 the appropriate documentation to the
4 State educational agency. If the pri-
5 vate school official is dissatisfied with
6 the decision of the State educational
7 agency, such official may complain to
8 the Secretary by providing the basis
9 of the noncompliance with this section
10 by the local educational agency to the
11 Secretary, and the State educational
12 agency shall forward the appropriate
13 documentation to the Secretary.

14 “(v) PROVISION OF SERVICES.—

15 “(I) DIRECTLY OR THROUGH
16 CONTRACTS.—An agency may provide
17 special education and related services
18 directly or through contracts with
19 public and private agencies, organiza-
20 tions, and institutions.

21 “(II) SECULAR, NEUTRAL, NON-
22 IDEOLOGICAL.—Special education and
23 related services, including materials
24 and equipment, shall be secular, neu-
25 tral, and nonideological.

1 “(vi) PUBLIC CONTROL OF FUNDS.—

2 “(I) IN GENERAL.—The control
3 of funds used to provide special edu-
4 cation and related services under this
5 section, and title to materials, equip-
6 ment, and property purchased with
7 those funds, shall be in a public agen-
8 cy for the uses and purposes provided
9 in this Act, and a public agency shall
10 administer the funds and property.

11 “(II) PROVISION OF SERVICES.—
12 The provision of services under this
13 Act shall be provided—

14 “(aa) by employees of a pub-
15 lic agency; or

16 “(bb) through contract by
17 the public agency with an indi-
18 vidual, association, agency, orga-
19 nization, or other entity.

20 “(B) CHILDREN PLACED IN, OR REFERRED
21 TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

22 “(i) IN GENERAL.—Children with dis-
23 abilities in private schools and facilities are
24 provided special education and related
25 services, in accordance with an individual-

1 ized education program, at no cost to their
2 parents, if such children are placed in, or
3 referred to, such schools or facilities by the
4 State or appropriate local educational
5 agency as the means of carrying out the
6 requirements of this part or any other ap-
7 plicable law requiring the provision of spe-
8 cial education and related services to all
9 children with disabilities within such State.

10 “(ii) STANDARDS.—In all cases de-
11 scribed in clause (i), the State educational
12 agency shall determine whether such
13 schools and facilities meet standards that
14 apply to State and local educational agen-
15 cies and that children so served have all
16 the rights they would have if served by
17 such agencies.

18 “(C) PAYMENT FOR EDUCATION OF CHIL-
19 DREN ENROLLED IN PRIVATE SCHOOLS WITH-
20 OUT CONSENT OF OR REFERRAL BY THE PUB-
21 LIC AGENCY.—

22 “(i) IN GENERAL.—Subject to sub-
23 paragraph (A), this part does not require
24 a local educational agency to pay for the
25 cost of education, including special edu-

1 cation and related services, of a child with
2 a disability at a private school or facility if
3 that agency made a free appropriate public
4 education available to the child and the
5 parents elected to place the child in such
6 private school or facility.

7 “(ii) REIMBURSEMENT FOR PRIVATE
8 SCHOOL PLACEMENT.—If the parents of a
9 child with a disability, who previously re-
10 ceived special education and related serv-
11 ices under the authority of a public agency,
12 enroll the child in a private elementary or
13 secondary school without the consent of or
14 referral by the public agency, a court or a
15 hearing officer may require the agency to
16 reimburse the parents for the cost of that
17 enrollment if the court or hearing officer
18 finds that the agency had not made a free
19 appropriate public education available to
20 the child in a timely manner prior to that
21 enrollment.

22 “(iii) LIMITATION ON REIMBURSE-
23 MENT.—The cost of reimbursement de-
24 scribed in clause (ii) may be reduced or de-
25 nied—

1 “(I) if—

2 “(aa) at the most recent
3 IEP meeting that the parents at-
4 tended prior to removal of the
5 child from the public school, the
6 parents did not inform the IEP
7 Team that they were rejecting
8 the placement proposed by the
9 public agency to provide a free
10 appropriate public education to
11 their child, including stating their
12 concerns and their intent to en-
13 roll their child in a private school
14 at public expense; or

15 “(bb) 10 business days (in-
16 cluding any holidays that occur
17 on a business day) prior to the
18 removal of the child from the
19 public school, the parents did not
20 give written notice to the public
21 agency of the information de-
22 scribed in division (aa);

23 “(II) if, prior to the parents’ re-
24 moval of the child from the public
25 school, the public agency informed the

1 parents, through the notice require-
2 ments described in section 615(b)(7),
3 of its intent to evaluate the child (in-
4 cluding a statement of the purpose of
5 the evaluation that was appropriate
6 and reasonable), but the parents did
7 not make the child available for such
8 evaluation; or

9 “(III) upon a judicial finding of
10 unreasonableness with respect to ac-
11 tions taken by the parents.

12 “(iv) EXCEPTION.—Notwithstanding
13 the notice requirement in clause (iii)(I),
14 the cost of reimbursement—

15 “(I) shall not be reduced or de-
16 nied for failure to provide such notice
17 if—

18 “(aa) the school prevented
19 the parent from providing such
20 notice;

21 “(bb) the parents had not
22 received notice, pursuant to sec-
23 tion 615, of the notice require-
24 ment in clause (iii)(I); or

1 “(cc) compliance with clause
2 (iii)(I) would likely result in
3 physical harm to the child; and

4 “(II) may, in the discretion of a
5 court or a hearing officer, not be re-
6 duced or denied for failure to provide
7 such notice if—

8 “(aa) the parent is illiterate
9 or cannot write in English; or

10 “(bb) compliance with clause
11 (iii)(I) would likely result in seri-
12 ous emotional harm to the child.

13 “(11) STATE EDUCATIONAL AGENCY RESPON-
14 SIBLE FOR GENERAL SUPERVISION.—

15 “(A) IN GENERAL.—The State educational
16 agency is responsible for ensuring that—

17 “(i) the requirements of this part are
18 met; and

19 “(ii) all educational programs for chil-
20 dren with disabilities in the State, includ-
21 ing all such programs administered by any
22 other State or local agency—

23 “(I) are under the general super-
24 vision of individuals in the State who
25 are responsible for educational pro-

1 grams for children with disabilities;
2 and

3 “(II) meet the educational stand-
4 ards of the State educational agency.

5 “(B) LIMITATION.—Subparagraph (A)
6 shall not limit the responsibility of agencies in
7 the State other than the State educational
8 agency to provide, or pay for some or all of the
9 costs of, a free appropriate public education for
10 any child with a disability in the State.

11 “(C) EXCEPTION.—Notwithstanding sub-
12 paragraphs (A) and (B), the Governor (or an-
13 other individual pursuant to State law), con-
14 sistent with State law, may assign to any public
15 agency in the State the responsibility of ensur-
16 ing that the requirements of this part are met
17 with respect to children with disabilities who
18 are convicted as adults under State law and in-
19 carcerated in adult prisons.”.

20 (3) Paragraphs (13) through (22) of section 612(a)
21 of the Individuals with Disabilities Education Act (20
22 U.S.C. 1412(a)(13)–(22)) are amended to read as follows:

23 “(13) PROCEDURAL REQUIREMENTS RELATING
24 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—
25 The State educational agency will not make a final

1 determination that a local educational agency is not
2 eligible for assistance under this part without first
3 affording that agency reasonable notice and an op-
4 portunity for a hearing.

5 “(14) PERSONNEL STANDARDS.—

6 “(A) IN GENERAL.—The State educational
7 agency has established and maintains standards
8 to ensure that personnel necessary to carry out
9 this part are appropriately and adequately pre-
10 pared and trained.

11 “(B) STANDARDS DESCRIBED.—Such
12 standards shall—

13 “(i) ensure that special education
14 teachers who teach in core academic sub-
15 jects are highly qualified in those subjects;

16 “(ii) be consistent with any State-ap-
17 proved or State-recognized certification, li-
18 censing, registration, or other comparable
19 requirements that apply to the professional
20 discipline in which those personnel are pro-
21 viding special education or related services
22 in order to ensure that such individuals are
23 qualified to provide such services; and

24 “(iii) allow paraprofessionals and as-
25 sistants who are appropriately trained and

1 supervised, in accordance with State law,
2 regulations, or written policy, in meeting
3 the requirements of this part to be used to
4 assist in the provision of special education
5 and related services to children with dis-
6 abilities under this part.

7 “(C) INNOVATIVE STRATEGIES FOR PRO-
8 FESSIONAL DEVELOPMENT.—The State edu-
9 cational agency encourages the development and
10 use of research-based innovative strategies, such
11 as strategies using technology, peer networks,
12 and distance learning, to deliver intensive pro-
13 fessional development programs for special and
14 regular education teachers, administrators,
15 principals, and related services personnel that—

16 “(i) improve educational results for
17 students with disabilities; and

18 “(ii) are both cost-effective and easily
19 accessible.

20 “(15) PERFORMANCE GOALS AND INDICA-
21 TORS.—The State—

22 “(A) has established goals for the perform-
23 ance of children with disabilities in the State
24 that—

1 “(i) promote the purposes of this Act,
2 as stated in section 601(d);

3 “(ii) are the same as the State’s defi-
4 nition of adequate yearly progress, includ-
5 ing the State’s objectives for progress by
6 children with disabilities, under section
7 1111(b)(2)(C) of the Elementary and Sec-
8 ondary Education Act of 1965;

9 “(iii) address dropout rates, as well as
10 such other factors as the State may deter-
11 mine; and

12 “(iv) are consistent, to the extent ap-
13 propriate, with any other goals and stand-
14 ards for children established by the State;

15 “(B) has established performance indica-
16 tors the State will use to assess progress toward
17 achieving those goals described in subparagraph
18 (A), including measurable annual objectives for
19 progress by children with disabilities under sec-
20 tion 1111(b)(2)(C) of the Elementary and Sec-
21 ondary Education Act of 1965; and

22 “(C) will annually report to the Secretary
23 and the public on the progress of the State, and
24 of children with disabilities in the State, toward
25 meeting the goals established under subpara-

1 graph (A), which may include elements of the
2 reports required under section 1111(h) of the
3 Elementary and Secondary Education Act of
4 1965.

5 “(16) PARTICIPATION IN ASSESSMENTS.—

6 “(A) IN GENERAL.—(i) All children with
7 disabilities are included in all general State and
8 district-wide assessment programs, including
9 assessments described under title I of the Ele-
10 mentary and Secondary Education Act of 1965,
11 with appropriate accommodations, where nec-
12 essary and as indicated in their respective indi-
13 vidualized education programs.

14 “(ii) The State (or, in the case of a dis-
15 trict-wide assessment, the local educational
16 agency) has developed and implemented guide-
17 lines for the provision of accommodations de-
18 scribed in clause (i).

19 “(iii) The State (or, in the case of a dis-
20 trict-wide assessment the local educational
21 agency)—

22 “(I) has developed and implemented
23 guidelines for the participation of children
24 with disabilities in alternate assessments
25 for those children who cannot participate

1 in regular assessments under clause (i);
2 and

3 “(II) conducts those alternate assess-
4 ments.

5 “(B) REPORTS.—The State educational
6 agency (or, in the case of a district-wide assess-
7 ment, the local educational agency) makes
8 available to the public, and reports to the public
9 with the same frequency and in the same detail
10 as it reports on the assessment of nondisabled
11 children, the following:

12 “(i) The number of children with dis-
13 abilities participating in regular assess-
14 ments, and the number of those children
15 who were provided accommodations in
16 order to participate in those assessments.

17 “(ii) The number of children with dis-
18 abilities participating in alternate assess-
19 ments.

20 “(iii) The performance of children
21 with disabilities on regular assessments
22 and on alternate assessments (if the num-
23 ber of children with disabilities partici-
24 pating in those assessments is sufficient to
25 yield statistically reliable information and

1 reporting that information would not re-
2 veal personally identifiable information
3 about an individual student), compared
4 with the achievement of all children, in-
5 cluding children with disabilities, on those
6 assessments.

7 “(17) DISPUTE RESOLUTION.—The State has
8 in effect systems of mediation and voluntary binding
9 arbitration pursuant to section 615(e).

10 “(18) SUPPLEMENTATION OF STATE, LOCAL,
11 AND OTHER FEDERAL FUNDS.—

12 “(A) EXPENDITURES.—Funds paid to a
13 State under this part will be expended in ac-
14 cordance with all the provisions of this part.

15 “(B) PROHIBITION AGAINST COMMING-
16 GLING.—Funds paid to a State under this part
17 will not be commingled with State funds.

18 “(C) PROHIBITION AGAINST SUPPLAN-
19 TATION AND CONDITIONS FOR WAIVER BY SEC-
20 RETARY.—Except as provided in section 613,
21 funds paid to a State under this part will be
22 used to supplement the level of Federal, State,
23 and local funds (including funds that are not
24 under the direct control of State or local edu-
25 cational agencies) expended for special edu-

1 cation and related services provided to children
2 with disabilities under this part and in no case
3 to supplant such Federal, State, and local
4 funds, except that, where the State provides
5 clear and convincing evidence that all children
6 with disabilities have available to them a free
7 appropriate public education, the Secretary may
8 waive, in whole or in part, the requirements of
9 this subparagraph if the Secretary concurs with
10 the evidence provided by the State.

11 “(19) MAINTENANCE OF STATE FINANCIAL
12 SUPPORT.—

13 “(A) IN GENERAL.—The State does not re-
14 duce the amount of State financial support for
15 special education and related services for chil-
16 dren with disabilities, or otherwise made avail-
17 able because of the excess costs of educating
18 those children, below the amount of that sup-
19 port for the preceding fiscal year.

20 “(B) REDUCTION OF FUNDS FOR FAILURE
21 TO MAINTAIN SUPPORT.—The Secretary shall
22 reduce the allocation of funds under section 611
23 for any fiscal year following the fiscal year in
24 which the State fails to comply with the re-
25 quirement of subparagraph (A) by the same

1 amount by which the State fails to meet the re-
2 quirement.

3 “(C) WAIVERS FOR EXCEPTIONAL OR UN-
4 CONTROLLABLE CIRCUMSTANCES.—The Sec-
5 retary may waive the requirement of subpara-
6 graph (A) for a State, for one fiscal year at a
7 time, if the Secretary determines that—

8 “(i) granting a waiver would be equi-
9 table due to exceptional or uncontrollable
10 circumstances such as a natural disaster or
11 a precipitous and unforeseen decline in the
12 financial resources of the State; or

13 “(ii) the State meets the standard in
14 paragraph (18)(C) of this section for a
15 waiver of the requirement to supplement,
16 and not to supplant, funds received under
17 this part.

18 “(D) SUBSEQUENT YEARS.—If, for any
19 year, a State fails to meet the requirement of
20 subparagraph (A), including any year for which
21 the State is granted a waiver under subpara-
22 graph (C), the financial support required of the
23 State in future years under subparagraph (A)
24 shall be the amount that would have been re-

1 quired in the absence of that failure and not
2 the reduced level of the State’s support.

3 “(20) PUBLIC PARTICIPATION.—Prior to the
4 adoption of any policies and procedures needed to
5 comply with this section (including any amendments
6 to such policies and procedures), the State ensures
7 that there are public hearings, adequate notice of
8 the hearings, and an opportunity for comment avail-
9 able to the general public, including individuals with
10 disabilities and parents of children with disabilities.

11 “(21) STATE ADVISORY PANEL.—

12 “(A) IN GENERAL.—The State has estab-
13 lished and maintains an advisory panel for the
14 purpose of providing policy guidance with re-
15 spect to special education and related services
16 for children with disabilities in the State.

17 “(B) MEMBERSHIP.—Such advisory panel
18 shall consist of members appointed by the Gov-
19 ernor, or any other official authorized under
20 State law to make such appointments, that is
21 representative of the State population and that
22 is composed of individuals involved in, or con-
23 cerned with, the education of children with dis-
24 abilities, including—

- 1 “(i) parents of children with disabil-
2 ities (ages birth through 26);
3 “(ii) individuals with disabilities;
4 “(iii) teachers;
5 “(iv) representatives of institutions of
6 higher education that prepare special edu-
7 cation and related services personnel;
8 “(v) State and local education offi-
9 cials;
10 “(vi) administrators of programs for
11 children with disabilities;
12 “(vii) representatives of other State
13 agencies involved in the financing or deliv-
14 ery of related services to children with dis-
15 abilities;
16 “(viii) representatives of private
17 schools and public charter schools;
18 “(ix) at least one representative of a
19 vocational, community, or business organi-
20 zation concerned with the provision of
21 transition services to children with disabil-
22 ities; and
23 “(x) representatives from the State
24 juvenile and adult corrections agencies.

1 “(C) SPECIAL RULE.—A majority of the
2 members of the panel shall be individuals with
3 disabilities or parents of children with disabili-
4 ties ages birth through 26.

5 “(D) DUTIES.—The advisory panel shall—

6 “(i) advise the State educational agen-
7 cy of unmet needs within the State in the
8 education of children with disabilities;

9 “(ii) comment publicly on any rules or
10 regulations proposed by the State regard-
11 ing the education of children with disabili-
12 ties;

13 “(iii) advise the State educational
14 agency in developing evaluations and re-
15 porting on data to the Secretary under sec-
16 tion 618;

17 “(iv) advise the State educational
18 agency in developing corrective action
19 plans to address findings identified in Fed-
20 eral monitoring reports under this part;
21 and

22 “(v) advise the State educational
23 agency in developing and implementing
24 policies relating to the coordination of serv-
25 ices for children with disabilities.

1 “(22) SUSPENSION AND EXPULSION RATES.—

2 “(A) IN GENERAL.—The State educational
3 agency examines data, including data
4 disaggregated by race and ethnicity, to deter-
5 mine if significant discrepancies are occurring
6 in the rate of long-term suspensions and expul-
7 sions of children with disabilities—

8 “(i) among local educational agencies
9 in the State; or

10 “(ii) compared to such rates for non-
11 disabled children within such agencies.

12 “(B) REVIEW AND REVISION OF POLI-
13 CIES.—If such discrepancies are occurring, the
14 State educational agency reviews and, if appro-
15 priate, revises (or requires the affected State or
16 local educational agency to revise) its policies,
17 procedures, and practices relating to the devel-
18 opment and implementation of IEPs, the use of
19 positive behavioral interventions and supports,
20 and procedural safeguards, to ensure that such
21 policies, procedures, and practices comply with
22 this Act.”.

23 (4) Section 612(a) of the Individuals with Disabilities
24 Education Act (20 U.S.C. 1412(a)(13)–(22)) is amended
25 by adding at the end the following:

1 “(23) INSTRUCTIONAL MATERIALS.—

2 “(A) IN GENERAL.—The State adopts the
3 national instructional materials accessibility
4 standard for the purposes of providing instruc-
5 tional materials to blind persons or other per-
6 sons with print disabilities in a timely manner
7 after the publication of the standard by the
8 Secretary in the Federal Register.

9 “(B) PURCHASE REQUIREMENT.—Not
10 later than 2 years after the date of the enact-
11 ment of the Improving Education Results for
12 Children With Disabilities Act of 2003, the
13 State educational agency, when purchasing in-
14 structional materials for use in public elemen-
15 tary and secondary schools within the State, re-
16 quires the publisher of the instructional mate-
17 rials, as a part of any purchase agreement that
18 is made, renewed, or revised, to prepare and
19 supply electronic files containing the contents of
20 the instructional materials using the national
21 instructional materials accessibility standard.

22 “(C) DEFINITION.—For purposes of this
23 paragraph, the term ‘instructional materials’
24 means printed textbooks and related core mate-
25 rials that are written and published primarily

1 for use in elementary school and secondary
2 school instruction and are required by a State
3 educational agency or local educational agency
4 for use by pupils in the classroom.

5 “(24) OVERIDENTIFICATION AND
6 DISPROPORTIONALITY.—The State has in effect,
7 consistent with the purposes of this Act and with
8 section 618, policies and procedures designed to pre-
9 vent the overidentification or disproportionate rep-
10 resentation by race and ethnicity of children as chil-
11 dren with disabilities, including the identification of
12 children as children with disabilities in accordance
13 with a particular impairment described in section
14 602(3).

15 “(25) PROHIBITION ON PSYCHOTROPIC MEDICA-
16 TION.—The State educational agency develops and
17 implements policies and procedures prohibiting
18 school personnel from requiring a child to obtain a
19 prescription for substances covered by section 202(c)
20 of the Controlled Substances Act (21 U.S.C. 812(e))
21 as a condition of attending school or receiving serv-
22 ices.”.

23 (b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
24 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
25 SERVICES.—Section 612(b) of the Individuals with Dis-

1 abilities Education Act (20 U.S.C. 1412(b)) is amended
2 to read as follows:

3 “(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
4 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
5 SERVICES.—If the State educational agency provides free
6 appropriate public education to children with disabilities,
7 or provides direct services to such children, such agency—

8 “(1) shall comply with any additional require-
9 ments of section 613(a), as if such agency were a
10 local educational agency; and

11 “(2) may use amounts that are otherwise avail-
12 able to such agency under this part to serve those
13 children without regard to section 613(a)(2)(A)(i)
14 (relating to excess costs).”.

15 (c) EXCEPTION FOR PRIOR STATE PLANS.—Section
16 612(c) of the Individuals with Disabilities Education Act
17 (20 U.S.C. 1412(c)) is amended to read as follows:

18 “(c) EXCEPTION FOR PRIOR STATE PLANS.—

19 “(1) IN GENERAL.—If a State has on file with
20 the Secretary policies and procedures that dem-
21 onstrate that such State meets any requirement of
22 subsection (a), including any policies and procedures
23 filed under this part as in effect before the effective
24 date of the Improving Education Results for Chil-
25 dren With Disabilities Act of 2003, the Secretary

1 shall consider such State to have met such require-
2 ment for purposes of receiving a grant under this
3 part.

4 “(2) MODIFICATIONS MADE BY STATE.—Sub-
5 ject to paragraph (3), an application submitted by a
6 State in accordance with this section shall remain in
7 effect until the State submits to the Secretary such
8 modifications as the State deems necessary. This
9 section shall apply to a modification to an applica-
10 tion to the same extent and in the same manner as
11 this section applies to the original plan.

12 “(3) MODIFICATIONS REQUIRED BY THE SEC-
13 RETARY.—If, after the effective date of the Improv-
14 ing Education Results for Children With Disabilities
15 Act of 2003, the provisions of this Act are amended
16 (or the regulations developed to carry out this Act
17 are amended), or there is a new interpretation of
18 this Act by a Federal court or a State’s highest
19 court, or there is an official finding of noncompli-
20 ance with Federal law or regulations, the Secretary
21 may require a State to modify its application only to
22 the extent necessary to ensure the State’s compli-
23 ance with this part.”.

1 (d) APPROVAL BY THE SECRETARY.—Section 612(d)
2 of the Individuals with Disabilities Education Act (20
3 U.S.C. 1412(d)) is amended to read as follows:

4 “(d) APPROVAL BY THE SECRETARY.—

5 “(1) IN GENERAL.—If the Secretary determines
6 that a State is eligible to receive a grant under this
7 part, the Secretary shall notify the State of that de-
8 termination.

9 “(2) NOTICE AND HEARING.—The Secretary
10 shall not make a final determination that a State is
11 not eligible to receive a grant under this part until
12 after providing the State—

13 “(A) with reasonable notice; and

14 “(B) with an opportunity for a hearing.”.

15 (e) ASSISTANCE UNDER OTHER FEDERAL PRO-
16 GRAMS.—Section 612(e) of the Individuals with Disabil-
17 ities Education Act (20 U.S.C. 1412(e)) is amended to
18 read as follows:

19 “(e) ASSISTANCE UNDER OTHER FEDERAL PRO-
20 GRAMS.—Nothing in this title permits a State to reduce
21 medical and other assistance available, or to alter eligi-
22 bility, under titles V and XIX of the Social Security Act
23 with respect to the provision of a free appropriate public
24 education for children with disabilities in the State.”.

1 **SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.**

2 Section 613 of the Individuals with Disabilities Edu-
3 cation Act (20 U.S.C. 1413) is amended to read as follows:

4 **“SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.**

5 “(a) IN GENERAL.—A local educational agency is eli-
6 gible for assistance under this part for a fiscal year if such
7 agency reasonably demonstrates to the State educational
8 agency that it meets each of the following conditions:

9 “(1) CONSISTENCY WITH STATE POLICIES.—

10 The local educational agency, in providing for the
11 education of children with disabilities within its ju-
12 risdiction, has in effect policies, procedures, and pro-
13 grams that are consistent with the State policies and
14 procedures established under section 612.

15 “(2) USE OF AMOUNTS.—

16 “(A) IN GENERAL.—Amounts provided to
17 the local educational agency under this part
18 shall be expended in accordance with the appli-
19 cable provisions of this part and—

20 “(i) shall be used only to pay the ex-
21 cess costs of providing special education
22 and related services to children with dis-
23 abilities;

24 “(ii) shall be used to supplement
25 State, local, and other Federal funds and
26 not to supplant such funds; and

1 “(iii) shall not be used, except as pro-
2 vided in subparagraphs (B) and (C), to re-
3 duce the level of expenditures for the edu-
4 cation of children with disabilities made by
5 the local educational agency from local
6 funds below the level of those expenditures
7 for the preceding fiscal year.

8 “(B) EXCEPTION.—Notwithstanding the
9 restriction in subparagraph (A)(iii), a local edu-
10 cational agency may reduce the level of expendi-
11 tures where such reduction is attributable to—

12 “(i) the voluntary departure, by re-
13 tirement or otherwise, or departure for just
14 cause, of special education personnel;

15 “(ii) a decrease in the enrollment of
16 children with disabilities;

17 “(iii) the termination of the obligation
18 of the agency, consistent with this part, to
19 provide a program of special education to
20 a particular child with a disability that is
21 an exceptionally costly program, as deter-
22 mined by the State educational agency, be-
23 cause the child—

24 “(I) has left the jurisdiction of
25 the agency;

1 “(II) has reached the age at
2 which the obligation of the agency to
3 provide a free appropriate public edu-
4 cation to the child has terminated; or

5 “(III) no longer needs such pro-
6 gram of special education; or

7 “(iv) the termination of costly expend-
8 itures for long-term purchases, such as the
9 acquisition of equipment or the construc-
10 tion of school facilities.

11 “(C) TREATMENT OF FEDERAL FUNDS IN
12 CERTAIN FISCAL YEARS.—

13 “(i) Notwithstanding clauses (ii) and
14 (iii) of subparagraph (A), for any fiscal
15 year for which amounts appropriated to
16 carry out section 611 exceeds
17 \$4,100,000,000, a local educational agency
18 may treat as local funds, for the purpose
19 of such clauses, up to 20 percent of the
20 amount of funds it receives under this part
21 that exceeds the amount it received under
22 this part for the previous fiscal year.

23 “(ii) If a local educational agency
24 chooses to use the authority under clause
25 (i), then the agency shall use those local

1 funds to provide additional funding for
2 programs under the Elementary and Sec-
3 ondary Education Act of 1965, including,
4 but not limited to, programs that address
5 student achievement, comprehensive school
6 reform, literacy, teacher quality and pro-
7 fessional development, school safety,
8 before- and after- school learning opportu-
9 nities.

10 “(iii) Notwithstanding clause (i), if a
11 State educational agency determines that a
12 local educational agency is unable to estab-
13 lish and maintain programs of free appro-
14 priate public education that meet the re-
15 quirements of subsection (a), the State
16 educational agency shall prohibit the local
17 educational agency from treating funds re-
18 ceived under this part as local funds under
19 clause (i) for that fiscal year, but only if
20 it is authorized to do so by the State con-
21 stitution or a State statute.

22 “(D) SCHOOLWIDE PROGRAMS UNDER
23 TITLE I OF THE ESEA.—Notwithstanding sub-
24 paragraph (A) or any other provision of this
25 part, a local educational agency may use funds

1 received under this part for any fiscal year to
2 carry out a schoolwide program under section
3 1114 of the Elementary and Secondary Edu-
4 cation Act of 1965, except that the amount so
5 used in any such program shall not exceed—

6 “(i) the number of children with dis-
7 abilities participating in the schoolwide
8 program; multiplied by

9 “(ii)(I) the amount received by the
10 local educational agency under this part
11 for that fiscal year; divided by

12 “(II) the number of children with dis-
13 abilities in the jurisdiction of that agency.

14 “(3) PERSONNEL DEVELOPMENT.—The local
15 educational agency shall ensure that all personnel
16 necessary to carry out this part are appropriately
17 and adequately prepared, consistent with the re-
18 quirements of section 612 of this Act and section
19 1119 of the Elementary and Secondary Education
20 Act of 1965.

21 “(4) PERMISSIVE USE OF FUNDS.—Notwith-
22 standing paragraph (2)(A) or section 612(a)(18)(B)
23 (relating to commingled funds), funds provided to
24 the local educational agency under this part may be
25 used for the following activities:

1 “(A) SERVICES AND AIDS THAT ALSO BEN-
2 EFIT NONDISABLED CHILDREN.—For the costs
3 of special education and related services and
4 supplementary aids and services provided in a
5 regular class or other education-related setting
6 to a child with a disability in accordance with
7 the individualized education program of the
8 child, even if one or more nondisabled children
9 benefit from such services.

10 “(B) PREREFERRAL SERVICES.—To de-
11 velop and implement a system of comprehensive
12 coordinated prereferral education support serv-
13 ices in accordance with subsection (f).

14 “(C) HIGH COST EDUCATION AND RE-
15 LATED SERVICES.—To establish and implement
16 cost or risk sharing funds, consortia, or co-
17 operatives for the agency itself, or for local edu-
18 cational agencies working in consortium of
19 which the local educational agency is a part, to
20 pay for high cost special education and related
21 services.

22 “(D) CASE MANAGEMENT AND ADMINIS-
23 TRATION.—To purchase appropriate technology
24 for record keeping, data collection, and related
25 case management activities of teachers and re-

1 lated services personnel who are providing serv-
2 ices described in the individualized education
3 program of children with disabilities necessary
4 to the implementation of those case manage-
5 ment activities.

6 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
7 ICES FOR CHILDREN WITH DISABILITIES IN
8 SCHOOLS DESIGNATED FOR IMPROVEMENT.—
9 For the reasonable additional expenses (as de-
10 termined by the local educational agency) of
11 any necessary accommodations to allow children
12 with disabilities who are being educated in a
13 school identified for school improvement under
14 section 1116(b) of the Elementary and Sec-
15 ondary Education Act of 1965 (20 U.S.C.
16 6316(b)) to be provided supplemental edu-
17 cational services under section 1116(e) of such
18 Act on an equitable basis.

19 “(5) TREATMENT OF CHARTER SCHOOLS AND
20 THEIR STUDENTS.—In carrying out this part with
21 respect to charter schools that are public schools of
22 the local educational agency, the local educational
23 agency—

24 “(A) serves children with disabilities at-
25 tending those schools in the same manner as it

1 serves children with disabilities in its other
2 schools, including providing supplemental and
3 related services on site at the charter school
4 when the local educational agency has a policy
5 or practice of providing those services on site to
6 its other schools; and

7 “(B) provides funds under this part to
8 those schools on the same basis as it provides
9 those funds to its other public schools (includ-
10 ing, at the option of such agency, proportional
11 distribution based on relative enrollment of chil-
12 dren with disabilities at such charter schools),
13 and at the same time as such agency distributes
14 other Federal funds to those schools, consistent
15 with the State’s charter law.

16 “(6) PURCHASE OF INSTRUCTIONAL MATE-
17 RIALS.—Not later than 2 years after the date of the
18 enactment of the Improving Education Results for
19 Children With Disabilities Act of 2003, the local
20 educational agency, when purchasing instructional
21 materials for use in public elementary and secondary
22 schools within the local educational agency, requires
23 the publisher of the instructional materials, as a
24 part of any purchase agreement that is made, re-
25 newed, or revised, to prepare and supply electronic

1 files containing the contents of the instructional ma-
2 terials using the national instructional materials ac-
3 cessibility standard described in section 612(a)(23).

4 “(7) INFORMATION FOR STATE EDUCATIONAL
5 AGENCY.—The local educational agency shall provide
6 the State educational agency with information nec-
7 essary to enable the State educational agency to
8 carry out its duties under this part, including, with
9 respect to paragraphs (15) and (16) of section
10 612(a), information relating to the performance of
11 children with disabilities participating in programs
12 carried out under this part.

13 “(8) PUBLIC INFORMATION.—The local edu-
14 cational agency shall make available to parents of
15 children with disabilities and to the general public
16 all documents relating to the eligibility of such agen-
17 cy under this part.

18 “(9) RECORDS REGARDING MIGRATORY CHIL-
19 DREN WITH DISABILITIES.—The local educational
20 agency shall cooperate in the Secretary’s efforts
21 under section 1308 of the Elementary and Sec-
22 ondary Education Act of 1965 (20 U.S.C. 6398) to
23 ensure the linkage of records pertaining to migratory
24 children with a disability for the purpose of elec-

1 tronically exchanging, among the States, health and
2 educational information regarding such children.

3 “(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

4 “(1) IN GENERAL.—If a local educational agen-
5 cy or State agency has on file with the State edu-
6 cational agency policies and procedures that dem-
7 onstrate that such local educational agency, or such
8 State agency, as the case may be, meets any require-
9 ment of subsection (a), including any policies and
10 procedures filed under this part as in effect before
11 the effective date of the Improving Education Re-
12 sults for Children With Disabilities Act of 2003, the
13 State educational agency shall consider such local
14 educational agency or State agency, as the case may
15 be, to have met such requirement for purposes of re-
16 ceiving assistance under this part.

17 “(2) MODIFICATION MADE BY LOCAL EDU-
18 CATIONAL AGENCY.—Subject to paragraph (3), an
19 application submitted by a local educational agency
20 in accordance with this section shall remain in effect
21 until it submits to the State educational agency such
22 modifications as the local educational agency deems
23 necessary.

24 “(3) MODIFICATIONS REQUIRED BY STATE
25 EDUCATIONAL AGENCY.—If, after the date of the en-

1 actment of the Improving Education Results for
2 Children With Disabilities Act of 2003, the provi-
3 sions of this Act are amended (or the regulations de-
4 veloped to carry out this Act are amended), or there
5 is a new interpretation of this Act by Federal or
6 State courts, or there is an official finding of non-
7 compliance with Federal or State law or regulations,
8 the State educational agency may require a local
9 educational agency to modify its application only to
10 the extent necessary to ensure the local educational
11 agency’s compliance with this part or State law.

12 “(c) NOTIFICATION OF LOCAL EDUCATIONAL AGEN-
13 CY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the
14 State educational agency determines that a local edu-
15 cational agency or State agency is not eligible under this
16 section, the State educational agency shall notify the local
17 educational agency or State agency, as the case may be,
18 of that determination and shall provide such local edu-
19 cational agency or State agency with reasonable notice and
20 an opportunity for a hearing.

21 “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

22 “(1) IN GENERAL.—If the State educational
23 agency, after reasonable notice and an opportunity
24 for a hearing, finds that a local educational agency
25 or State agency that has been determined to be eligi-

1 ble under this section is failing to comply with any
2 requirement described in subsection (a), the State
3 educational agency shall reduce or shall not provide
4 any further payments to the local educational agency
5 or State agency until the State educational agency
6 is satisfied that the local educational agency or State
7 agency, as the case may be, is complying with that
8 requirement.

9 “(2) ADDITIONAL REQUIREMENT.—Any State
10 agency or local educational agency in receipt of a no-
11 tice described in paragraph (1) shall, by means of
12 public notice, take such measures as may be nec-
13 essary to bring the pendency of an action pursuant
14 to this subsection to the attention of the public with-
15 in the jurisdiction of such agency.

16 “(3) CONSIDERATION.—In carrying out its re-
17 sponsibilities under paragraph (1), the State edu-
18 cational agency shall consider any decision made in
19 a hearing held under section 615 that is adverse to
20 the local educational agency or State agency involved
21 in that decision.

22 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

23 “(1) JOINT ESTABLISHMENT.—

24 “(A) IN GENERAL.—A State educational
25 agency may require a local educational agency

1 to establish its eligibility jointly with another
2 local educational agency if the State educational
3 agency determines that the local educational
4 agency would be ineligible under this section be-
5 cause the local educational agency would not be
6 able to establish and maintain programs of suf-
7 ficient size and scope to effectively meet the
8 needs of children with disabilities.

9 “(B) CHARTER SCHOOL EXCEPTION.—A
10 State educational agency may not require a
11 charter school that is a local educational agency
12 to jointly establish its eligibility under subpara-
13 graph (A) unless it is explicitly permitted to do
14 so under the State’s charter school statute.

15 “(2) AMOUNT OF PAYMENTS.—If a State edu-
16 cational agency requires the joint establishment of
17 eligibility under paragraph (1), the total amount of
18 funds made available to the affected local edu-
19 cational agencies shall be equal to the sum of the
20 payments that each such local educational agency
21 would have received under section 611(f) if such
22 agencies were eligible for such payments.

23 “(3) REQUIREMENTS.—Local educational agen-
24 cies that establish joint eligibility under this sub-
25 section shall—

1 “(A) adopt policies and procedures that
2 are consistent with the State’s policies and pro-
3 cedures under section 612(a); and

4 “(B) be jointly responsible for imple-
5 menting programs that receive assistance under
6 this part.

7 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
8 ICE AGENCIES.—

9 “(A) IN GENERAL.—If an educational serv-
10 ice agency is required by State law to carry out
11 programs under this part, the joint responsibil-
12 ities given to local educational agencies under
13 this subsection shall—

14 “(i) not apply to the administration
15 and disbursement of any payments re-
16 ceived by that educational service agency;
17 and

18 “(ii) be carried out only by that edu-
19 cational service agency.

20 “(B) ADDITIONAL REQUIREMENT.—Not-
21 withstanding any other provision of this sub-
22 section, an educational service agency shall pro-
23 vide for the education of children with disabil-
24 ities in the least restrictive environment, as re-
25 quired by section 612(a)(5).

1 “(f) PREREFERRAL SERVICES.—

2 “(1) IN GENERAL.—A local educational agency
3 may use not more than 15 percent of the amount
4 such agency receives under this part for any fiscal
5 year, in combination with other amounts (which may
6 include amounts other than education funds), to de-
7 velop and implement comprehensive coordinated
8 prereferral educational support services for students
9 in kindergarten through grade 12 (with a particular
10 emphasis on students in grades kindergarten
11 through 3) who have not been identified as needing
12 special education or related services but who need
13 additional academic and behavioral support to suc-
14 ceed in a general education environment.

15 “(2) ACTIVITIES.—In implementing comprehen-
16 sive coordinated prereferral educational services
17 under this subsection, a local educational agency
18 may carry out the following activities:

19 “(A) Professional development (which may
20 be provided by entities other than local edu-
21 cational agencies) for teachers to enable them
22 to deliver scientifically based academic and be-
23 havioral interventions, including scientifically
24 based literacy instruction.

1 “(B) Providing educational evaluations,
2 services, and supports, including scientifically
3 based literacy instruction and speech therapy.

4 “(C) Providing behavioral evaluations and
5 services and supports, including positive behav-
6 ioral interventions and supports.

7 “(3) EXCLUSION.—Nothing in this subsection
8 shall be construed to either limit or create a right
9 to a free appropriate public education under this
10 part.

11 “(4) REPORTING.—Each local educational
12 agency that develops and maintains comprehensive
13 coordinated prereferral educational support services
14 under this subsection shall annually report to the
15 State educational agency on—

16 “(A) the number of students served under
17 this subsection; and

18 “(B) the number of students served under
19 this subsection who subsequently receive special
20 education and related services under this Act
21 during the preceding 2-year period.

22 “(5) COORDINATION WITH THE ELEMENTARY
23 AND SECONDARY EDUCATION ACT OF 1965.—

24 “(A) IN GENERAL.—Comprehensive coordi-
25 nated prereferral educational support services

1 provided under this subsection may be aligned
2 with activities funded by, and carried out
3 under, the Elementary and Secondary Edu-
4 cation Act of 1965, such as the Reading First
5 program under subpart 1 of part B of title I of
6 such Act, the Early Reading First program
7 under subpart 2 of part B of title I of such Act,
8 reading and math supports under part A of
9 title I of such Act, and behavior intervention
10 supports, that improve results for children with
11 disabilities.

12 “(B) MAINTENANCE OF EFFORT.—Funds
13 used under this section shall be used to supple-
14 ment, and not supplant, funds made available
15 under the Elementary and Secondary Education
16 Act of 1965.

17 “(g) DIRECT SERVICES BY THE STATE EDU-
18 CATIONAL AGENCY.—

19 “(1) IN GENERAL.—A State educational agency
20 shall use the payments that would otherwise have
21 been available to a local educational agency or to a
22 State agency to provide special education and re-
23 lated services directly to children with disabilities re-
24 siding in the area served by that local agency, or for
25 whom that State agency is responsible, if the State

1 educational agency determines that the local edu-
2 cation agency or State agency, as the case may be—

3 “(A) has not provided the information
4 needed to establish the eligibility of such agency
5 under this section;

6 “(B) is unable to establish and maintain
7 programs of free appropriate public education
8 that meet the requirements of subsection (a);

9 “(C) is unable or unwilling to be consoli-
10 dated with one or more local educational agen-
11 cies in order to establish and maintain such
12 programs; or

13 “(D) has one or more children with disabil-
14 ities who can best be served by a regional or
15 State program or service-delivery system de-
16 signed to meet the needs of such children.

17 “(2) MANNER AND LOCATION OF EDUCATION
18 AND SERVICES.—The State educational agency may
19 provide special education and related services under
20 paragraph (1) in such manner and at such locations
21 (including regional or State centers) as the State
22 agency considers appropriate. Such education and
23 services shall be provided in accordance with this
24 part.

1 “(h) STATE AGENCY ELIGIBILITY.—Any State agen-
2 cy that desires to receive a subgrant for any fiscal year
3 under section 611(f) shall demonstrate to the satisfaction
4 of the State educational agency that—

5 “(1) all children with disabilities who are par-
6 ticipating in programs and projects funded under
7 this part receive a free appropriate public education,
8 and that those children and their parents are pro-
9 vided all the rights and procedural safeguards de-
10 scribed in this part; and

11 “(2) the agency meets such other conditions of
12 this section as the Secretary determines to be appro-
13 priate.

14 “(i) DISCIPLINARY INFORMATION.—The State may
15 require that a local educational agency include in the
16 records of a child with a disability a statement of any cur-
17 rent or previous disciplinary action that has been taken
18 against the child and transmit such statement to the same
19 extent that such disciplinary information is included in,
20 and transmitted with, the student records of nondisabled
21 children. The statement may include a description of any
22 behavior engaged in by the child that required disciplinary
23 action, a description of the disciplinary action taken, and
24 any other information that is relevant to the safety of the
25 child and other individuals involved with the child. If the

1 State adopts such a policy, and the child transfers from
2 one school to another, the transmission of any of the
3 child's records must include both the child's current indi-
4 vidualized education program and any such statement of
5 current or previous disciplinary action that has been taken
6 against the child.”.

7 **SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
8 **INDIVIDUALIZED EDUCATION PROGRAMS,**
9 **AND EDUCATIONAL PLACEMENTS.**

10 (a) IN GENERAL.—Section 614 of the Individuals
11 with Disabilities Education Act (20 U.S.C. 1414) is
12 amended to read as follows:

13 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
14 **INDIVIDUALIZED EDUCATION PROGRAMS,**
15 **AND EDUCATIONAL PLACEMENTS.**

16 “(a) EVALUATIONS, PARENTAL CONSENT, AND RE-
17 EVALUATIONS.—

18 “(1) INITIAL EVALUATIONS.—

19 “(A) IN GENERAL.—A State educational
20 agency, other State agency, or local educational
21 agency shall conduct a full and individual initial
22 evaluation, in accordance with this paragraph
23 and subsection (b), before the initial provision
24 of special education and related services to a
25 child with a disability under this part.

1 “(B) REQUEST FOR INITIAL EVALUA-
2 TION.—Consistent with subparagraph (D), ei-
3 ther a parent of a child, a State educational
4 agency, other State agency as appropriate, or
5 local educational agency may initiate a request
6 for an initial evaluation to determine if the
7 child is a child with a disability.

8 “(C) PROCEDURES.—Such initial evalua-
9 tion shall consist of procedures—

10 “(i) to determine whether a child is a
11 child with a disability (as defined in sec-
12 tion 602(3)); and

13 “(ii) to determine the educational
14 needs of such child.

15 “(D) PARENTAL CONSENT.—

16 “(i) IN GENERAL.—

17 “(I) CONSENT FOR INITIAL
18 EVALUATION.—The agency proposing
19 to conduct an initial evaluation to de-
20 termine if the child qualifies as a child
21 with a disability as defined in section
22 602(3) shall obtain informed consent
23 from the parent of such child before
24 conducting the evaluation. Parental
25 consent for evaluation shall not be

1 construed as consent for placement
2 for receipt of special education and re-
3 lated services.

4 “(II) CONSENT FOR SERVICES.—

5 An agency that is responsible for
6 making a free appropriate public edu-
7 cation available to a child with a dis-
8 ability under this part shall seek to
9 obtain informed consent from the par-
10 ent of such child before providing spe-
11 cial education and related services to
12 the child.

13 “(ii) ABSENCE OF CONSENT.—

14 “(I) FOR INITIAL EVALUATION.—

15 If the parent of such child does not
16 provide consent for an initial evalua-
17 tion under clause (i)(I), or the parent
18 fails to respond to a request to pro-
19 vide the consent, the local educational
20 agency may pursue the initial evalua-
21 tion of the child through the proce-
22 dures described in section 615, except
23 to the extent inconsistent with State
24 law relating to such parental consent.

1 “(II) FOR SERVICES.—If the par-
2 ent of such child does not provide con-
3 sent for services under clause (i)(II),
4 or the parent fails to respond to a re-
5 quest to provide the consent, the local
6 educational agency shall not provide
7 special education and related services
8 to the child through the procedures
9 described in section 615.

10 “(III) EFFECT ON AGENCY OBLI-
11 GATIONS.—In any case for which
12 there is an absence of consent for an
13 initial evaluation under subclause (I),
14 or for which there is an absence of
15 consent for services under subclause
16 (II)—

17 “(aa) the local educational
18 agency shall not be required to
19 convene an IEP meeting or de-
20 velop an IEP under this section
21 for the child; and

22 “(bb) the local educational
23 agency shall not be considered to
24 be in violation of any require-
25 ment under this part (including

1 the requirement to make avail-
2 able a free appropriate public
3 education to the child) with re-
4 spect to the lack of an initial
5 evaluation of the child, an IEP
6 meeting with respect to the child,
7 or the development of an IEP
8 under this section for the child.

9 “(E) RULE OF CONSTRUCTION.—The
10 screening of a student by a teacher or specialist
11 to determine appropriate instructional strate-
12 gies for curriculum implementation shall not be
13 considered to be an evaluation for eligibility for
14 special education and related services.

15 “(2) REEVALUATIONS.—

16 “(A) IN GENERAL.—A local educational
17 agency shall ensure that a reevaluation of each
18 child with a disability is conducted in accord-
19 ance with subsections (b) and (c)—

20 “(i) if the local educational agency de-
21 termines that the educational needs, in-
22 cluding improved academic achievement, of
23 the child warrant a reevaluation; or

24 “(ii) if the child’s parent or teacher
25 requests a reevaluation.

1 “(B) LIMITATION.—A reevaluation con-
2 ducted under subparagraph (A) shall occur—

3 “(i) no more than once a year, unless
4 the parent and the local educational agen-
5 cy agree otherwise; and

6 “(ii) at least once every three years,
7 unless the parent and the local educational
8 agency agree that a reevaluation is unnec-
9 essary.

10 “(b) EVALUATION PROCEDURES.—

11 “(1) NOTICE.—The local educational agency
12 shall provide notice to the parent of a child with a
13 disability, in accordance with subsections (b)(3),
14 (b)(4), and (c) of section 615, that describes any
15 evaluation procedures such agency proposes to con-
16 duct.

17 “(2) CONDUCT OF EVALUATION.—In con-
18 ducting the evaluation, the local educational agency
19 shall—

20 “(A) use multiple up-to-date measures and
21 assessments to gather relevant functional, de-
22 velopmental, and academic information, includ-
23 ing information provided by the parent, to as-
24 sist in determining—

1 “(i) whether the child is a child with
2 a disability; and

3 “(ii) the content of the child’s individ-
4 ualized education program, including infor-
5 mation related to enabling the child to be
6 involved in and progress in the general
7 education curriculum or, for preschool chil-
8 dren, to participate in appropriate activi-
9 ties;

10 “(B) not use any single measure or assess-
11 ment as the sole criterion for determining
12 whether a child is a child with a disability or
13 determining an appropriate educational pro-
14 gram for the child; and

15 “(C) use technically sound instruments
16 that may assess the relative contribution of cog-
17 nitive and behavioral factors, in addition to
18 physical or developmental factors.

19 “(3) ADDITIONAL REQUIREMENTS.—Each local
20 educational agency shall ensure that—

21 “(A) assessments and other evaluation
22 measures used to assess a child under this sec-
23 tion—

1 “(i) are selected and administered so
2 as not to be discriminatory on a racial or
3 cultural basis;

4 “(ii) are provided and administered in
5 the language and form most likely to yield
6 accurate academic and developmental data,
7 unless it is clearly not feasible to do so;

8 “(iii) are used for the purposes for
9 which the assessments or measures are
10 valid and reliable;

11 “(iv) are administered by trained and
12 knowledgeable personnel; and

13 “(v) are administered in accordance
14 with any instructions provided by the pro-
15 ducer of such tests;

16 “(B) the child is assessed in all areas of
17 suspected disability; and

18 “(C) assessment tools and strategies that
19 provide relevant information that directly as-
20 sists persons in determining the educational
21 needs of the child are provided.

22 “(4) DETERMINATION OF ELIGIBILITY AND
23 EDUCATIONAL NEED.—Upon completion of the ad-
24 ministration of assessments and other evaluation
25 measures—

1 “(A) the determination of whether the
2 child is a child with a disability as defined in
3 section 602(3) and the educational needs of the
4 child shall be made by a team of qualified pro-
5 fessionals and the parent of the child in accord-
6 ance with paragraph (5); and

7 “(B) a copy of the evaluation report and
8 the documentation of determination of eligibility
9 will be given to the parent.

10 “(5) SPECIAL RULE FOR ELIGIBILITY DETER-
11 MINATION.—In making a determination of eligibility
12 under paragraph (4)(A), a child shall not be deter-
13 mined to be a child with a disability if the deter-
14 minant factor for such determination is—

15 “(A) lack of scientifically based instruction
16 practices and programs that contain the essen-
17 tial components of reading instruction (as that
18 term is defined in section 1208(3) of the Ele-
19 mentary and Secondary Education Act of
20 1965);

21 “(B) lack of instruction in math; or

22 “(C) limited English proficiency.

23 “(6) SPECIFIC LEARNING DISABILITIES.—

24 “(A) IN GENERAL.—Notwithstanding sec-
25 tion 607 of this Act, when determining whether

1 a child has a specific learning disability as de-
2 fined under this Act, the local educational agen-
3 cy shall not be required to take into consider-
4 ation whether the child has a severe discrepancy
5 between achievement and intellectual ability in
6 oral expression, listening comprehension, writ-
7 ten expression, basic reading skill, reading com-
8 prehension, mathematical calculation, or mathe-
9 matical reasoning.

10 “(B) ADDITIONAL AUTHORITY.—In deter-
11 mining whether a child has a specific learning
12 disability, a local educational agency may use a
13 process which determines if a child responds to
14 scientific, research-based intervention.

15 “(c) ADDITIONAL REQUIREMENTS FOR EVALUATION
16 AND REEVALUATIONS.—

17 “(1) REVIEW OF EXISTING EVALUATION
18 DATA.—As part of an initial evaluation (if appro-
19 priate) and as part of any reevaluation under this
20 section, the IEP Team described in subsection
21 (d)(1)(B) and other qualified professionals, as ap-
22 propriate, shall—

23 “(A) review existing evaluation data on the
24 child, including evaluations and information
25 provided by the parents of the child, current

1 classroom-based local or State assessments, and
2 classroom-based observations, and teacher and
3 related services providers observations; and

4 “(B) on the basis of that review, and input
5 from the child’s parents, identify what addi-
6 tional data, if any, are needed to determine—

7 “(i) whether the child is a child with
8 a disability as defined in section 602(3),
9 and the educational needs of the child, or,
10 in case of a reevaluation of a child, wheth-
11 er the child continues to have such a dis-
12 ability and such educational needs;

13 “(ii) the present levels of academic
14 achievement and related developmental
15 needs of the child;

16 “(iii) whether the child needs special
17 education and related services, or in the
18 case of a reevaluation of a child, whether
19 the child continues to need special edu-
20 cation and related services; and

21 “(iv) whether any additions or modi-
22 fications to the special education and re-
23 lated services are needed to enable the
24 child to meet the measurable annual goals
25 set out in the individualized education pro-

1 gram of the child and to participate, as ap-
2 propriate, in the general education cur-
3 riculum.

4 “(2) SOURCE OF DATA.—The local educational
5 agency shall administer such assessments and other
6 evaluation measures as may be needed to produce
7 the data identified by the IEP Team under para-
8 graph (1)(B).

9 “(3) PARENTAL CONSENT.—Each local edu-
10 cational agency shall obtain informed parental con-
11 sent, in accordance with subsection (a)(1)(D), prior
12 to conducting any reevaluation of a child with a dis-
13 ability, except that such informed parental consent
14 need not be obtained if the local educational agency
15 can demonstrate that it had taken reasonable meas-
16 ures to obtain such consent and the child’s parent
17 has failed to respond.

18 “(4) REQUIREMENTS IF ADDITIONAL DATA ARE
19 NOT NEEDED.—If the IEP Team and other qualified
20 professionals, as appropriate, determine that no ad-
21 ditional data are needed to determine whether the
22 child continues to be a child with a disability and to
23 determine the child’s educational needs, the local
24 educational agency—

25 “(A) shall notify the child’s parents of—

1 “(i) that determination and the rea-
2 sons for it; and

3 “(ii) the right of such parents to re-
4 quest an assessment to determine whether
5 the child continues to be a child with a dis-
6 ability and to determine the child’s edu-
7 cational needs; and

8 “(B) shall not be required to conduct such
9 an assessment unless requested to by the child’s
10 parents.

11 “(5) EVALUATIONS BEFORE CHANGE IN ELIGI-
12 BILITY.—A local educational agency shall evaluate a
13 child with a disability in accordance with this section
14 prior to graduation, and before determining that the
15 child is no longer a child with a disability, only in
16 instances where the IEP Team is not in agreement
17 regarding the change in eligibility.

18 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

19 “(1) DEFINITIONS.—As used in this title:

20 “(A) INDIVIDUALIZED EDUCATION PRO-
21 GRAM.—

22 “(i) IN GENERAL.—The term ‘individ-
23 ualized education program’ or ‘IEP’ means
24 a written statement for each child with a
25 disability that is developed, reviewed, and

1 revised in accordance with this section and
2 that includes—

3 “(I) a statement of the child’s
4 present levels of academic achieve-
5 ment, including—

6 “(aa) how the child’s dis-
7 ability affects the child’s involve-
8 ment and progress in the general
9 education curriculum;

10 “(bb) for preschool children,
11 as appropriate, how the disability
12 affects the child’s participation in
13 appropriate activities; and

14 “(cc) until the beginning of
15 the 2005–2006 school year, a de-
16 scription of benchmarks or short-
17 term objectives, except in the
18 case of children with disabilities
19 who take alternate assessments
20 aligned to alternate achievement
21 standards, a description of
22 benchmarks or short-term objec-
23 tives shall continue to be in-
24 cluded;

1 “(II) a statement of measurable
2 annual goals designed to—

3 “(aa) meet the child’s needs
4 that result from the child’s dis-
5 ability to enable the child to be
6 involved in and make progress in
7 the general education curriculum;
8 and

9 “(bb) meet the child’s other
10 educational needs that result
11 from the child’s disability;

12 “(III) a statement of the special
13 education and related services and
14 supplementary aids and services,
15 based on peer-reviewed research to the
16 extent practicable, to be provided to
17 the child, or on behalf of the child,
18 and a statement of the program modi-
19 fications or supports for school per-
20 sonnel that will be provided for the
21 child—

22 “(aa) to advance appro-
23 priately toward attaining the an-
24 nual goals;

1 “(bb) to be involved in and
2 make progress in the general
3 education curriculum in accord-
4 ance with subclause (I) and to
5 participate in extracurricular and
6 other nonacademic activities; and

7 “(cc) to be educated and
8 participate with other children
9 with disabilities and nondisabled
10 children in the activities de-
11 scribed in this paragraph;

12 “(IV) an explanation of the ex-
13 tent, if any, to which the child will not
14 participate with nondisabled children
15 in the regular class and in the activi-
16 ties described in subclause (III)(cc);

17 “(V)(aa) a statement of any indi-
18 vidual appropriate accommodations in
19 the administration of State or district-
20 wide assessments of student achieve-
21 ment that are necessary to measure
22 the academic achievement of the child
23 consistent with section
24 612(a)(16)(A)(ii); and

1 “(bb) if the IEP Team deter-
2 mines that the child will not partici-
3 pate in a particular State or district-
4 wide assessment of student achieve-
5 ment (or part of such an assessment),
6 a statement of—

7 “(AA) why that assessment
8 is not appropriate for the child;
9 and

10 “(BB) how the child will be
11 assessed consistent with
12 612(a)(16)(A);

13 “(VI) the projected date for the
14 beginning of the services and modi-
15 fications described in subclause (III),
16 and the anticipated frequency, loca-
17 tion, and duration of those services
18 and modifications;

19 “(VII)(aa) beginning at age 14,
20 and updated annually, a statement of
21 the transition service needs of the
22 child under the applicable components
23 of the child’s IEP that focuses on the
24 child’s courses of study (such as par-
25 ticipation in advanced-placement

1 courses or a vocational education pro-
2 gram);

3 “(bb) beginning at age 16 (or
4 younger, if determined appropriate by
5 the IEP Team), a statement of need-
6 ed transition services for the child, in-
7 cluding, when appropriate, a state-
8 ment of the interagency responsibil-
9 ities or any needed linkages; and

10 “(cc) beginning at least 1 year
11 before the child reaches the age of
12 majority under State law, a statement
13 that the child has been informed of
14 his or her rights under this title, if
15 any, that will transfer to the child on
16 reaching the age of majority under
17 section 615(l); and

18 “(VIII) a statement of—

19 “(aa) how the child’s
20 progress toward the annual goals
21 described in subclause (II) will be
22 measured; and

23 “(bb) how the child’s par-
24 ents will be regularly informed
25 (by such means as periodic report

1 cards), at least as often as par-
2 ents are informed of their non-
3 disabled children’s progress, of
4 the sufficiency of their child’s
5 progress toward the annual goals
6 described in subclause (II).

7 “(ii) RULE OF CONSTRUCTION.—
8 Nothing in this subparagraph shall be con-
9 strued to require—

10 “(I) that additional information
11 be included in a child’s IEP beyond
12 what is required in this subsection;
13 and

14 “(II) the IEP Team to include
15 information under one component of a
16 child’s IEP that is already contained
17 under another component of such
18 IEP.

19 “(B) INDIVIDUALIZED EDUCATION PRO-
20 GRAM TEAM.—The term ‘individualized edu-
21 cation program team’ or ‘IEP Team’ means a
22 group of individuals composed of—

23 “(i) the parents of a child with a dis-
24 ability;

1 “(ii) a regular education teacher of
2 such child, but such teacher shall not be
3 required to attend a meeting or part of a
4 meeting of the IEP Team involving issues
5 not related to the child’s participation in
6 the regular education environment, nor
7 shall multiple regular education teachers, if
8 the child has more than one regular edu-
9 cation teacher, be required to attend a
10 meeting, or part of a meeting, of the IEP
11 team;

12 “(iii) at least 1 special education
13 teacher, or where appropriate, at least 1
14 special education provider of such child;

15 “(iv) a representative of the local edu-
16 cational agency who—

17 “(I) is qualified to provide, or su-
18 pervise the provision of, specially de-
19 signed instruction to meet the unique
20 needs of children with disabilities;

21 “(II) is knowledgeable about the
22 general education curriculum; and

23 “(III) is knowledgeable about the
24 availability of resources of the local
25 educational agency;

1 “(v) an individual who can interpret
2 the instructional implications of evaluation
3 results, who may be a member of the team
4 described in clauses (ii) through (vi);

5 “(vi) at the discretion of the parent or
6 the agency, other individuals who have
7 knowledge or special expertise regarding
8 the child, including related services per-
9 sonnel as appropriate; and

10 “(vii) whenever appropriate, the child
11 with a disability.

12 “(2) REQUIREMENT THAT PROGRAM BE IN EF-
13 FECT.—

14 “(A) IN GENERAL.—At the beginning of
15 each school year, each local educational agency,
16 State educational agency, or other State agen-
17 cy, as the case may be, shall have in effect, for
18 each child with a disability in its jurisdiction,
19 an individualized education program, as defined
20 in paragraph (1)(A).

21 “(B) PROGRAM FOR CHILD AGED 3
22 THROUGH 5.—In the case of a child with a dis-
23 ability aged 3 through 5 (or, at the discretion
24 of the State educational agency, a 2 year-old
25 child with a disability who will turn age 3 dur-

1 ing the school year), the IEP Team shall con-
2 sider the individualized family service plan that
3 contains the material described in section 636,
4 and that is developed in accordance with this
5 section, and the individualized family service
6 plan may serve as the IEP of the child if using
7 that plan as the IEP is—

8 “(i) consistent with State policy; and

9 “(ii) agreed to by the agency and the
10 child’s parents.

11 “(3) DEVELOPMENT OF IEP.—

12 “(A) IN GENERAL.—In developing each
13 child’s IEP, the IEP Team, subject to subpara-
14 graph (C), shall consider—

15 “(i) the results of the initial evalua-
16 tion or most recent evaluation of the child;

17 “(ii) the academic and developmental
18 needs of the child;

19 “(iii) the strengths of the child; and

20 “(iv) the concerns of the parents for
21 enhancing the education of their child.

22 “(B) CONSIDERATION OF SPECIAL FAC-
23 TORS.—The IEP Team shall—

24 “(i) in the case of a child whose be-
25 havior impedes his or her learning or that

1 of others, consider the use of positive be-
2 havioral interventions and supports, and
3 other strategies, to address that behavior;

4 “(ii) in the case of a child with limited
5 English proficiency, consider the language
6 needs of the child as such needs relate to
7 the child’s IEP;

8 “(iii) in the case of a child who is
9 blind or visually impaired, provide for in-
10 struction in Braille and the use of Braille
11 unless the IEP Team determines, after an
12 evaluation of the child’s reading and writ-
13 ing skills, needs, and appropriate reading
14 and writing media (including an evaluation
15 of the child’s future needs for instruction
16 in Braille or the use of Braille), that in-
17 struction in Braille or the use of Braille is
18 not appropriate for the child;

19 “(iv) consider the communication
20 needs of the child, and in the case of a
21 child who is deaf or hard of hearing, con-
22 sider the child’s language and communica-
23 tion needs, opportunities for direct commu-
24 nications with peers and professional per-
25 sonnel in the child’s language and commu-

1 nication mode, academic level, and full
2 range of needs, including opportunities for
3 direct instruction in the child’s language
4 and communication mode; and

5 “(v) consider whether the child needs
6 assistive technology devices and services.

7 “(C) REQUIREMENT WITH RESPECT TO
8 REGULAR EDUCATION TEACHER.—The regular
9 education teacher of the child, if a member of
10 the IEP Team pursuant to paragraph
11 (1)(B)(ii), shall, to the extent appropriate, par-
12 ticipate in the development of the IEP of the
13 child, including the determination of appro-
14 priate positive behavioral interventions and sup-
15 ports, and other strategies and the determina-
16 tion of supplementary aids and services, pro-
17 gram modifications, and support for school per-
18 sonnel consistent with paragraph (1)(A)(i)(III).

19 “(D) IEP TEAM ATTENDANCE.—The par-
20 ent of a child with a disability and the local
21 educational agency may jointly excuse any
22 member of the IEP Team from attending all or
23 part of an IEP meeting if they agree that the
24 member’s attendance is not necessary. The IEP
25 Team shall obtain the member’s input prior to

1 an IEP meeting from which the member is ex-
2 cused.

3 “(E) AGREEMENT ON MEETING.—In mak-
4 ing changes to a child’s IEP after the annual
5 IEP meeting, the parent of a child with a dis-
6 ability and the local educational agency may
7 agree not to reconvene the IEP team and in-
8 stead develop a written document to amend or
9 modify the child’s current IEP.

10 “(F) CONSOLIDATION OF IEP TEAM MEET-
11 INGS.—To the extent possible, the local edu-
12 cational agency shall encourage the consolida-
13 tion of IEP Team meetings for a child.

14 “(G) AMENDMENTS.—Changes to the IEP
15 may be made either by the entire IEP Team or,
16 as provided in subparagraph (E), by amending
17 the IEP rather than by redrafting the entire
18 IEP.

19 “(4) REVIEW AND REVISION OF IEP.—

20 “(A) IN GENERAL.—The local educational
21 agency shall ensure that, subject to subpara-
22 graph (B), the IEP Team—

23 “(i) reviews the child’s IEP periodi-
24 cally, but not less than annually, to deter-

1 mine whether the annual goals for the
2 child are being achieved; and

3 “(ii) revises the IEP as appropriate to
4 address—

5 “(I) any lack of expected
6 progress toward the annual goals and
7 in the general education curriculum,
8 where appropriate;

9 “(II) the results of any reevalua-
10 tion conducted under this section;

11 “(III) information about the
12 child provided to, or by, the parents,
13 as described in subsection (c)(1)(B);

14 “(IV) the child’s anticipated
15 needs; or

16 “(V) other matters.

17 “(B) REQUIREMENT WITH RESPECT TO
18 REGULAR EDUCATION TEACHER.—The regular
19 education teacher of the child, if a member of
20 the IEP Team, shall, consistent with this sec-
21 tion, participate in the review and revision of
22 the IEP of the child.

23 “(5) MULTI-YEAR IEP.—

24 “(A) DEVELOPMENT.—The local edu-
25 cational agency may offer to the parent of a

1 child with a disability the option of developing
2 a comprehensive multi-year IEP, not to exceed
3 3 years, that is designed to cover the natural
4 transition points for the child. With the consent
5 of the parent, the IEP Team shall develop an
6 IEP, as described in paragraphs (1) and (3),
7 that is designed to serve the child for the ap-
8 propriate multi-year period, which includes a
9 statement of—

10 “(i) measurable goals pursuant to
11 paragraph (1)(A)(i)(II), coinciding with
12 natural transition points for the child, that
13 will enable the child to be involved in and
14 make progress in the general education
15 curriculum and that will meet the child’s
16 other needs that result from the child’s
17 disability; and

18 “(ii) measurable annual goals for de-
19 termining progress toward meeting the
20 goals described in clause (i).

21 “(B) REVIEW AND REVISION OF MULTI-
22 YEAR IEP.—

23 “(i) REQUIREMENT.—The IEP Team
24 shall conduct a review under paragraph (4)

1 of the child’s multi-year IEP at each of the
2 child’s natural transition points.

3 “(ii) STREAMLINED ANNUAL REVIEW
4 PROCESS.—In years other than a child’s
5 natural transition points, the local edu-
6 cational agency shall ensure that the IEP
7 Team—

8 “(I) provides an annual review of
9 the child’s IEP to determine the
10 child’s current levels of progress and
11 determine whether the annual goals
12 for the child are being achieved; and

13 “(II) amends the IEP, as appro-
14 priate, to enable the child to continue
15 to meet the measurable goals set out
16 in the IEP.

17 “(iii) COMPREHENSIVE REVIEW PROC-
18 ESS.—If the IEP Team determines, on the
19 basis of the review under clause (i), that
20 the child is not making sufficient progress
21 toward the goals described in subpara-
22 graph (A), the local educational agency
23 shall ensure that the IEP Team reviews
24 the IEP under paragraph (4), within 30
25 calendar days.

1 “(iv) PARENTAL PREFERENCE.—At
2 the request of the parent, the IEP Team
3 shall conduct a review under paragraph (4)
4 of the child’s multi-year IEP rather than a
5 streamlined annual review under clause
6 (ii).

7 “(C) DEFINITION.—As used in this para-
8 graph, the term ‘natural transition points’
9 means those periods that are close in time to
10 the transition of a child with a disability from
11 preschool to elementary grades, from elemen-
12 tary grades to middle or junior high school
13 grades, from middle or junior high school
14 grades to high school grades, and from high
15 school grades to post-secondary activities, but
16 in no case longer than 3 years.

17 “(6) FAILURE TO MEET TRANSITION OBJEC-
18 TIVES.—If a participating agency, other than the
19 local educational agency, fails to provide the transi-
20 tion services described in the IEP in accordance with
21 paragraph (1)(A)(i)(VII), the local educational agen-
22 cy shall reconvene the IEP Team to identify alter-
23 native strategies to meet the transition objectives for
24 the child set out in that program.

1 “(7) CHILDREN WITH DISABILITIES IN ADULT
2 PRISONS.—

3 “(A) IN GENERAL.—The following require-
4 ments do not apply to children with disabilities
5 who are convicted as adults under State law
6 and incarcerated in adult prisons:

7 “(i) The requirements contained in
8 section 612(a)(16) and paragraph
9 (1)(A)(i)(V) of this subsection (relating to
10 participation of children with disabilities in
11 general assessments).

12 “(ii) The requirements of items (aa)
13 and (bb) of paragraph (1)(A)(i)(VII) of
14 this subsection (relating to transition plan-
15 ning and transition services), do not apply
16 with respect to such children whose eligi-
17 bility under this part will end, because of
18 their age, before they will be released from
19 prison.

20 “(B) ADDITIONAL REQUIREMENT.—If a
21 child with a disability is convicted as an adult
22 under State law and incarcerated in an adult
23 prison, the child’s IEP Team may modify the
24 child’s IEP or placement notwithstanding the
25 requirements of sections 612(a)(5)(A) and

1 614(d)(1)(A) if the State has demonstrated a
2 bona fide security or compelling penological in-
3 terest that cannot otherwise be accommodated.

4 “(e) EDUCATIONAL PLACEMENTS.—Each local edu-
5 cational agency or State educational agency shall ensure
6 that the parents of each child with a disability are mem-
7 bers of any group that makes decisions on the educational
8 placement of their child.

9 “(f) ALTERNATIVE MEANS OF MEETING PARTICIPA-
10 TION.—When conducting IEP team meetings and place-
11 ment meetings pursuant to this section and 615, the par-
12 ent of a child with a disability and a local educational
13 agency may agree to use alternative means of meeting par-
14 ticipation, such as video conferences and conference
15 calls.”.

16 (b) FINDINGS; SENSE OF CONGRESS.—

17 (1) FINDINGS.—Congress finds the following:

18 (A) Certain of the categories of disability
19 that allow students to qualify for benefits under
20 the Individuals with Disabilities Education Act
21 have not been scientifically established and, as
22 a result, some children who do not have actual
23 learning disabilities are classified as having dis-
24 abilities under that Act.

1 (B) Nearly one in eight students is now la-
2 beled as disabled.

3 (C) Over one-half of those students are
4 classified as having learning and behavioral
5 challenges.

6 (D) Current definitions of disabilities in
7 the Code of Federal Regulations, particularly
8 the definition of “emotional disturbance”, are
9 vague and ambiguous.

10 (E) The absence of reliable methods for
11 distinguishing children with a special learning
12 disability from children who have lower than ex-
13 pected achievement leads to over-identification
14 and misidentification of non-disabled students
15 as students with disabilities.

16 (F) The lack of consistently applied diag-
17 nostic criteria for specific learning disabilities
18 makes it possible to diagnose almost any low or
19 underachieving child as a student with a dis-
20 ability.

21 (G) The President’s Commission on Excel-
22 lence in Special Education (PCESE) found in
23 its July 1, 2002, report, “A New Era: Revital-
24 izing Special Education for Children and their
25 Families”, that many of the current methods of

1 identifying children with disabilities lack valid-
2 ity and, as a result, thousands of children are
3 misidentified every year, while many others are
4 not identified early enough or at all.

5 (H) The President's Commission also
6 found that emotional and behavioral difficulties
7 could be prevented through classroom-based ap-
8 proaches involving positive discipline and class-
9 room management.

10 (I) According to testimony from a March
11 13, 2003, hearing before the Subcommittee on
12 Education Reform of the Committee on Edu-
13 cation and the Workforce of the House of Rep-
14 resentatives, students are frequently referred to
15 special education because they are not suc-
16 ceeding in the general education setting, and
17 not because they are actually disabled.

18 (J) Students with controllable behavioral
19 problems are often classified as having learning
20 disabilities and therefore are not held respon-
21 sible for their own behavior.

22 (K) According to testimony by Secretary of
23 Education Rod Paige on October 4, 2001, be-
24 fore the Committee on Education and the
25 Workforce of the House of Representatives, our

1 educational system fails to teach many children
2 fundamental skills like reading, then inappro-
3 priately identifies some of them as having dis-
4 abilities, thus harming the educational future of
5 those children who are misidentified and reduc-
6 ing the resources available to serve children
7 with disabilities.

8 (2) SENSE OF CONGRESS.—It is the sense of
9 Congress that—

10 (A) students who have not been diagnosed
11 by a physician or other person certified by a
12 State health board as having a disability (as de-
13 fined under the Individuals with Disabilities
14 Education Act) should not be classified as chil-
15 dren with disabilities for purposes of receiving
16 services under that Act; and

17 (B) students with behavioral problems who
18 have not been diagnosed by a physician or other
19 person certified by a State health board as hav-
20 ing a disability should be subject to the regular
21 school disciplinary code.

22 **SEC. 205. PROCEDURAL SAFEGUARDS.**

23 (a) ESTABLISHMENT OF PROCEDURES.—Section
24 615(a) of the Individuals with Disabilities Education Act
25 (20 U.S.C. 1415(a)) is amended to read as follows:

1 “(a) ESTABLISHMENT OF PROCEDURES.—Any State
2 educational agency, State agency, or local educational
3 agency that receives assistance under this part shall estab-
4 lish and maintain procedures in accordance with this sec-
5 tion to ensure that children with disabilities and their par-
6 ents are guaranteed procedural safeguards with respect to
7 the provision of free appropriate public education by such
8 agencies.”.

9 (b) TYPES OF PROCEDURES.—Section 615(b) of the
10 Individuals with Disabilities Education Act (20 U.S.C.
11 1415(b)) is amended to read as follows:

12 “(b) TYPES OF PROCEDURES.—The procedures re-
13 quired by this section shall include—

14 “(1) an opportunity for the parents of a child
15 with a disability to examine all records relating to
16 such child and to participate in meetings with re-
17 spect to the identification, evaluation, and edu-
18 cational placement of the child, and the provision of
19 a free appropriate public education to such child,
20 and to obtain as appropriate an independent edu-
21 cational evaluation of the child;

22 “(2) procedures to protect the rights of the
23 child whenever the parents of the child are not
24 known, the agency cannot, after reasonable efforts,
25 locate the parents, or the child is a ward of the

1 State, including the assignment of an individual
2 (who shall not be an employee of the State edu-
3 cational agency, the local educational agency, or any
4 other agency that is involved in the education or
5 care of the child) to act as a surrogate for the par-
6 ents;

7 “(3) written prior notice to the parents of the
8 child whenever such agency—

9 “(A) proposes to initiate or change; or

10 “(B) refuses to initiate or change;

11 the identification, evaluation, or educational place-
12 ment of the child, in accordance with subsection (c),
13 or the provision of a free appropriate public edu-
14 cation to the child;

15 “(4) procedures designed to ensure that the no-
16 tice required by paragraph (3) is in the native lan-
17 guage of the parents, unless it clearly is not feasible
18 to do so;

19 “(5) an opportunity for mediation and vol-
20 untary binding arbitration, in accordance with sub-
21 section (e);

22 “(6) an opportunity to present complaints—

23 “(A) with respect to any matter relating to
24 the identification, evaluation, or educational

1 placement of the child, or the provision of a free
2 appropriate public education to such child; and

3 “(B) which set forth a violation that oc-
4 curred not more than one year before the com-
5 plaint is filed;

6 “(7)(A) procedures that require the parent of a
7 child with a disability, or the attorney representing
8 the child, to provide notice (which shall remain con-
9 fidential)—

10 “(i) to the local educational agency or
11 State educational agency (if the State edu-
12 cational agency is the direct provider of services
13 pursuant to section 613(g)), in the complaint
14 filed under paragraph (6); and

15 “(ii) that shall include—

16 “(I) the name of the child, the ad-
17 dress of the residence of the child (or, in
18 the case of a homeless child or youth
19 (within the meaning of section 725(2) of
20 the McKinney-Vento Homeless Assistance
21 Act (42 U.S.C. 11434a(2)), available con-
22 tact information for the child), and the
23 name of the school the child is attending;

24 “(II) a description of the specific
25 issues regarding the nature of the problem

1 of the child relating to such proposed initi-
2 ation or change, including facts relating to
3 such problem; and

4 “(III) a proposed resolution of the
5 problem to the extent known and available
6 to the parents at the time;

7 “(B) a requirement that a parent of a child
8 with a disability may not have a due process hearing
9 until the parent, or the attorney representing the
10 child, files a notice that meets the requirements of
11 this paragraph; and

12 “(8) procedures that require the State edu-
13 cational agency to develop a model form to assist
14 parents in filing a complaint in accordance with
15 paragraph (7).”.

16 (c) CONTENT OF PRIOR WRITTEN NOTICE.—Section
17 615(c) of the Individuals with Disabilities Education Act
18 (20 U.S.C. 1415(c)) is amended to read as follows:

19 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—The
20 notice required by subsection (b)(3) shall include—

21 “(1) a description of the action proposed or re-
22 fused by the agency;

23 “(2) an explanation of why the agency proposes
24 or refuses to take the action and a description of
25 each evaluation procedure, test, record, or report the

1 agency used as a basis for the proposed or refused
2 action;

3 “(3) a statement that the parents of a child
4 with a disability have protection under the proce-
5 dural safeguards of this part and, if this notice is
6 not an initial referral for evaluation, the means by
7 which a copy of a description of the procedural safe-
8 guards can be obtained; and

9 “(4) sources for parents to contact to obtain as-
10 sistance in understanding the provisions of this
11 part.”.

12 (d) PROCEDURAL SAFEGUARDS NOTICE.—Section
13 615(d) of the Individuals with Disabilities Education Act
14 (20 U.S.C. 1415(d)) is amended to read as follows:

15 “(d) PROCEDURAL SAFEGUARDS NOTICE.—

16 “(1) IN GENERAL.—A copy of the procedural
17 safeguards available to the parents of a child with
18 a disability shall be given to the parents, at a min-
19 imum—

20 “(A) upon initial referral or parental re-
21 quest for evaluation;

22 “(B) annually, at the beginning of the
23 school year; and

24 “(C) upon written request by a parent.

1 “(2) CONTENTS.—The procedural safeguards
2 notice shall include a description of the procedural
3 safeguards, written in the native language of the
4 parents, unless it clearly is not feasible to do so, and
5 written in an easily understandable manner, avail-
6 able under this section and under regulations pro-
7 mulgated by the Secretary relating to—

8 “(A) independent educational evaluation;

9 “(B) prior written notice;

10 “(C) parental consent;

11 “(D) access to educational records;

12 “(E) opportunity to present complaints;

13 “(F) the child’s placement during pend-
14 ency of due process proceedings;

15 “(G) procedures for students who are sub-
16 ject to placement in an interim alternative edu-
17 cational setting;

18 “(H) requirements for unilateral placement
19 by parents of children in private schools at pub-
20 lic expense;

21 “(I) mediation, early dispute resolution,
22 and voluntary binding arbitration;

23 “(J) due process hearings, including re-
24 quirements for disclosure of evaluation results
25 and recommendations;

1 “(K) civil actions; and

2 “(L) attorneys’ fees.”.

3 (e) MEDIATION AND VOLUNTARY BINDING ARBITRA-
4 TION.—Section 615(e) of the Individuals with Disabilities
5 Education Act (20 U.S.C. 1415(e)) is amended to read
6 as follows:

7 “(e) MEDIATION AND VOLUNTARY BINDING ARBI-
8 TRATION.—

9 “(1) MEDIATION.—

10 “(A) IN GENERAL.—Any State educational
11 agency or local educational agency that receives
12 assistance under this part shall ensure that pro-
13 cedures are established and implemented to
14 allow parties to disputes involving any matter,
15 including matters arising prior to the filing of
16 a complaint pursuant to subsection (b)(6), to
17 resolve such disputes through a mediation pro-
18 cess.

19 “(B) REQUIREMENTS.—Such procedures
20 shall meet the following requirements:

21 “(i) The procedures shall ensure that
22 the mediation process—

23 “(I) is voluntary on the part of
24 the parties;

1 “(II) is not used to deny or delay
2 a parent’s right to a due process hear-
3 ing under subsection (f), or to deny
4 any other rights afforded under this
5 part; and

6 “(III) is conducted by a qualified
7 and impartial mediator who is trained
8 in effective mediation techniques.

9 “(ii) A local educational agency or a
10 State agency may establish procedures to
11 offer to parents who choose not to use the
12 mediation process, an opportunity to meet,
13 at a time and location convenient to the
14 parents, with a disinterested party who is
15 under contract with—

16 “(I) a parent training and infor-
17 mation center in the State established
18 under section 672; or

19 “(II) an appropriate alternative
20 dispute resolution entity;
21 to encourage the use, and explain the bene-
22 fits, of the mediation process to the par-
23 ents.

24 “(iii) The State shall maintain a list
25 of individuals who are qualified mediators

1 and knowledgeable in laws and regulations
2 relating to the provision of special edu-
3 cation and related services.

4 “(iv) The State shall bear the cost of
5 the mediation process, including the costs
6 of meetings described in clause (ii).

7 “(v) Each session in the mediation
8 process shall be scheduled in a timely man-
9 ner and shall be held in a location that is
10 convenient to the parties to the dispute.

11 “(vi) An agreement reached by the
12 parties to the dispute in the mediation
13 process shall be set forth in a written me-
14 diation agreement.

15 “(vii) Discussions that occur during
16 the mediation process shall be confidential
17 and may not be used as evidence in any
18 subsequent due process hearings or civil
19 proceedings and the parties to the medi-
20 ation process may be required to sign a
21 confidentiality pledge prior to the com-
22 mencement of such process.

23 “(2) VOLUNTARY BINDING ARBITRATION.—

24 “(A) IN GENERAL.—A State educational
25 agency that receives assistance under this part

1 shall ensure that procedures are established and
2 implemented to allow parties to disputes involv-
3 ing any matter described in subsection (b)(6) to
4 resolve such disputes through voluntary binding
5 arbitration, which shall be available when a
6 hearing is requested under subsection (f) or (j).

7 “(B) REQUIREMENTS.—Such procedures
8 shall meet the following requirements:

9 “(i) The procedures shall ensure that
10 the voluntary binding arbitration process—

11 “(I) is voluntarily and knowingly
12 agreed to in writing by the parties;
13 and

14 “(II) is conducted by a qualified
15 and impartial arbitrator.

16 “(ii) A local educational agency or a
17 State agency shall ensure that parents who
18 choose to use voluntary binding arbitration
19 understand that the process is in lieu of a
20 due process hearing under subsection (f) or
21 (j) and that the decision made by the arbi-
22 trator is final, unless there is fraud by a
23 party or the arbitrator or misconduct on
24 the part of the arbitrator.

1 “(iii) The parties shall jointly agree to
2 use an arbitrator from a list that the State
3 shall maintain of individuals who are quali-
4 fied arbitrators and knowledgeable in laws
5 and regulations relating to the provision of
6 special education and related services.

7 “(iv) The arbitration shall be con-
8 ducted according to State law on arbitra-
9 tion or, if there is no such applicable State
10 law, in a manner consistent with the Re-
11 vised Uniform Arbitration Act.

12 “(v) The voluntary binding arbitration
13 shall be scheduled in a timely manner and
14 shall be held in a location that is conven-
15 ient to the parties to the dispute.”.

16 (f) IMPARTIAL DUE PROCESS HEARING.—Section
17 615(f) of the Individuals with Disabilities Education Act
18 (20 U.S.C. 1415(f)) is amended to read as follows:

19 “(f) IMPARTIAL DUE PROCESS HEARING.—

20 “(1) IN GENERAL.—

21 “(A) ACCESS TO HEARING.—Whenever a
22 complaint has been received under subsection
23 (b)(6) or (j) of this section, the parents or the
24 local educational agency involved in such com-
25 plaint shall have an opportunity for an impar-

1 tial due process hearing, which shall be con-
2 ducted by the State educational agency.

3 “(B) RESOLUTION SESSION.—

4 “(i) IN GENERAL.—Prior to the op-
5 portunity for an impartial due process
6 hearing under subparagraph (A), the local
7 educational agency shall convene a meeting
8 with the parents—

9 “(I) within 15 days of receiving
10 notice of the parents’ complaint; and

11 “(II) where the parents of the
12 child discuss their complaint, and the
13 specific issues that form the basis of
14 the complaint, and the local edu-
15 cational agency is provided the oppor-
16 tunity to resolve the complaint;
17 unless the parents and the local edu-
18 cational agency agree in writing to waive
19 such meeting.

20 “(ii) DUE PROCESS HEARING.—If the
21 local educational agency has not resolved
22 the complaint to the satisfaction of the
23 parents within 30 days of the receipt of
24 the complaint, the due process hearing

1 shall occur in accordance with subpara-
2 graph (A).

3 “(iii) DEFINITION OF MEETING.—A
4 meeting conducted pursuant to clause (i)
5 shall not be considered—

6 “(I) a meeting convened as a re-
7 sult of an administrative hearing or
8 judicial action; or

9 “(II) an administrative hearing
10 or judicial action for purposes of sub-
11 section (h)(3).

12 “(2) DISCLOSURE OF EVALUATIONS AND REC-
13 OMMENDATIONS.—

14 “(A) IN GENERAL.—At least 5 business
15 days prior to a hearing conducted pursuant to
16 paragraph (1), each party shall disclose to all
17 other parties all evaluations completed by that
18 date and recommendations based on the offer-
19 ing party’s evaluations that the party intends to
20 use at the hearing.

21 “(B) FAILURE TO DISCLOSE.—A hearing
22 officer may bar any party that fails to comply
23 with subparagraph (A) from introducing the
24 relevant evaluation or recommendation at the
25 hearing without the consent of the other party.

1 “(3) LIMITATION ON HEARING.—

2 “(A) HEARING OFFICER.—A hearing con-
3 ducted pursuant to paragraph (1)(A) may not
4 be conducted by—

5 “(i) an employee of the State edu-
6 cational agency or the local educational
7 agency involved in the education or care of
8 the child; or

9 “(ii) any person having a personal or
10 professional interest that would conflict
11 with his or her objectivity in the hearing.

12 “(B) SUBJECT MATTER OF HEARING.—No
13 party shall be allowed to raise issues at the due
14 process hearing that were not raised in the
15 complaint, discussed during the meeting con-
16 ducted pursuant to paragraph (1)(B), or prop-
17 erly disclosed pursuant to paragraph (2), unless
18 both parties agree otherwise.”.

19 (g) APPEAL.—Section 615 of the Individuals with
20 Disabilities Education Act (20 U.S.C. 1415) is amended
21 by striking subsection (g).

22 (h) SAFEGUARDS.—Section 615 of the Individuals
23 with Disabilities Education Act (20 U.S.C. 1415) is
24 amended—

1 (1) by redesignating subsection (h) as sub-
2 section (g); and

3 (2) by amending subsection (g) (as redesign-
4 nated) to read as follows:

5 “(g) SAFEGUARDS.—Any party to a hearing con-
6 ducted pursuant to subsection (f) or (j) shall be ac-
7 corded—

8 “(1) the right to be represented by counsel and
9 by non-attorney advocates and to be accompanied
10 and advised by individuals with special knowledge or
11 training with respect to the problems of children
12 with disabilities;

13 “(2) the right to present evidence and confront,
14 cross-examine, and compel the attendance of wit-
15 nesses;

16 “(3) the right to a written, or, at the option of
17 the parents, electronic verbatim record of such hear-
18 ing; and

19 “(4) the right to written, or, at the option of
20 the parents, electronic findings of fact and decisions
21 (which findings and decisions shall be made available
22 to the public consistent with the requirements of sec-
23 tion 617(d)) (relating to the confidentiality of data,
24 information, and records).”.

1 (i) ADMINISTRATIVE PROCEDURES.—Section 615 of
2 the Individuals with Disabilities Education Act (20 U.S.C.
3 1415) is amended—

4 (1) by redesignating subsection (i) as subsection
5 (h); and

6 (2) in subsection (h) (as redesignated)—

7 (A) in paragraph (1)—

8 (i) by striking “IN GENERAL.—” and
9 all that follows through “A decision made
10 in a hearing” and inserting “IN GEN-
11 ERAL.—A decision made in a hearing”;

12 (ii) by striking “(k)” and inserting
13 “(j)”;

14 (iii) by striking “subsection (g) and”;
15 and

16 (iv) by striking subparagraph (B);

17 (B) in paragraph (2)(A), by striking “sub-
18 section (f) or (k) who does not have the right
19 to an appeal under subsection (g)” and insert-
20 ing “subsection (f) or (j)”;

21 (C) in paragraph (3), by amending sub-
22 paragraph (C) to read as follows:

23 “(C) DETERMINATION OF AMOUNT OF AT-
24 TORNEYS’ FEES.—

1 “(i) IN GENERAL.—Fees awarded
2 under this paragraph shall be based on
3 rates determined by the Governor of the
4 State (or other appropriate State official)
5 in which the action or proceeding arose for
6 the kind and quality of services furnished.
7 No bonus or multiplier may be used in cal-
8 culating the fees awarded under this sub-
9 section.

10 “(ii) NOTICE.—The Governor of the
11 State (or other appropriate State official)
12 shall make available to the public on an
13 annual basis the rates described in clause
14 (i).”.

15 (j) MAINTENANCE OF CURRENT EDUCATIONAL
16 PLACEMENT.—Section 615 of the Individuals with Dis-
17 abilities Education Act (20 U.S.C. 1415) is amended—

18 (1) by redesignating subsection (j) as sub-
19 section (i); and

20 (2) by amending subsection (i) (as redesign-
21 nated) to read as follows:

22 “(i) MAINTENANCE OF CURRENT EDUCATIONAL
23 PLACEMENT.—Except as provided in subsection (j)(4),
24 during the pendency of any proceedings conducted pursu-
25 ant to this section, unless the State or local educational

1 agency and the parents otherwise agree, the child shall
2 remain in the then-current educational placement of such
3 child, or, if applying for initial admission to a public
4 school, shall, with the consent of the parents, be placed
5 in the public school program until all such proceedings
6 have been completed.”.

7 (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL
8 SETTING.—Section 615 of the Individuals with Disabil-
9 ities Education Act (20 U.S.C. 1415) is amended—

10 (1) by redesignating subsection (k) as sub-
11 section (j); and

12 (2) by amending subsection (j) (as redesign-
13 nated) to read as follows:

14 “(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL
15 SETTING.—

16 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

17 “(A) IN GENERAL.—School personnel
18 under this section may order a change in the
19 placement of a child with a disability who vio-
20 lates a code of student conduct policy to an ap-
21 propriate interim alternative educational set-
22 ting, another setting, or suspension, for not
23 more than 10 school days (to the extent such
24 alternatives would be applied to children with-
25 out disabilities).

1 “(B) **ADDITIONAL AUTHORITY.**—Subject
2 to subparagraph (C), and notwithstanding any
3 other provision of this Act, school personnel
4 under this section may order a change in the
5 placement of a child with a disability who vio-
6 lates a code of student conduct policy to an ap-
7 propriate interim alternative educational setting
8 selected so as to enable the child to continue to
9 participate in the general education curriculum,
10 although in another setting, and to progress to-
11 ward meeting the goals set out in the child’s
12 IEP, for not more than 45 school days (to the
13 extent such alternative and such duration would
14 be applied to children without disabilities, and
15 which may include consideration of unique cir-
16 cumstances on a case-by-case basis), except that
17 the change in placement may last beyond 45
18 school days if required by State law or regula-
19 tion for the violation in question, to ensure the
20 safety and appropriate educational atmosphere
21 in the schools under the jurisdiction of the local
22 educational agency.

23 “(C) **SERVICES.**—A child with a disability
24 who is removed from the child’s current place-
25 ment under subparagraph (B) shall—

1 “(i) continue to receive educational
2 services selected so as to enable the child
3 to continue to participate in the general
4 education curriculum, although in another
5 setting, and to progress toward meeting
6 the goals set out in the child’s IEP; and

7 “(ii) continue to receive behavioral
8 intervention services designed to address
9 the behavior violation so that it does not
10 recur.

11 “(2) DETERMINATION OF SETTING.—The alter-
12 native educational setting described in paragraph
13 (1)(B) shall be determined by the IEP Team.

14 “(3) PARENT APPEAL.—

15 “(A) IN GENERAL.—If the parent of a
16 child with a disability disagrees with any deci-
17 sion regarding placement or punishment under
18 this section, the parent may request a hearing.

19 “(B) AUTHORITY OF HEARING OFFICER.—
20 If a parent of a child with a disability disagrees
21 with a decision regarding placement of the child
22 or punishment of the child under this section,
23 including duration of the punishment, the hear-
24 ing officer may determine whether the decision
25 regarding such action was appropriate.

1 “(4) PLACEMENT DURING APPEALS.—When a
2 parent requests a hearing regarding a disciplinary
3 action described in paragraph (1)(B) to challenge
4 the interim alternative educational setting or the vio-
5 lation of the code of student conduct policy, the child
6 shall remain in the interim alternative educational
7 setting pending the decision of the hearing officer or
8 until the expiration of the time period provided for
9 in paragraph (1)(B), whichever occurs first, unless
10 the parent and the State or local educational agency
11 agree otherwise.

12 “(5) PROTECTIONS FOR CHILDREN NOT YET
13 ELIGIBLE FOR SPECIAL EDUCATION AND RELATED
14 SERVICES.—

15 “(A) IN GENERAL.—A child who has not
16 been determined to be eligible for special edu-
17 cation and related services under this part and
18 who has engaged in behavior that violates a
19 code of student conduct policy, may assert any
20 of the protections provided for in this part if
21 the local educational agency had knowledge (as
22 determined in accordance with this paragraph)
23 that the child was a child with a disability be-
24 fore the behavior that precipitated the discipli-
25 nary action occurred.

1 “(B) BASIS OF KNOWLEDGE.—A local edu-
2 cational agency shall be deemed to have knowl-
3 edge that a child is a child with a disability if,
4 before the behavior that precipitated the dis-
5 ciplinary action occurred—

6 “(i) the parent of the child has ex-
7 pressed concern in writing (unless the par-
8 ent is illiterate or has a disability that pre-
9 vents compliance with the requirements
10 contained in this clause) to personnel of
11 the appropriate educational agency that
12 the child is in need of special education
13 and related services;

14 “(ii) the parent of the child has re-
15 quested an evaluation of the child pursuant
16 to section 614; or

17 “(iii) the teacher of the child, or other
18 personnel of the local educational agency,
19 has expressed concern in writing about the
20 behavior or performance of the child to the
21 director of special education of such agen-
22 cy or to other personnel of the agency.

23 “(C) CONDITIONS THAT APPLY IF NO
24 BASIS OF KNOWLEDGE.—

1 “(i) IN GENERAL.—If a local edu-
2 cational agency does not have knowledge
3 that a child is a child with a disability (in
4 accordance with subparagraph (B)) prior
5 to taking disciplinary measures against the
6 child, the child may be subjected to dis-
7 ciplinary measures applied to children
8 without disabilities who engaged in com-
9 parable behaviors consistent with clause
10 (ii).

11 “(ii) LIMITATIONS.—If a request is
12 made for an evaluation of a child during
13 the time period in which the child is sub-
14 jected to disciplinary measures under para-
15 graph (1) or (2), the evaluation shall be
16 conducted in an expedited manner. If the
17 child is determined to be a child with a dis-
18 ability, taking into consideration informa-
19 tion from the evaluation conducted by the
20 agency and information provided by the
21 parents, the agency shall provide special
22 education and related services in accord-
23 ance with this part, except that, pending
24 the results of the evaluation, the child shall

1 remain in the educational placement deter-
2 mined by school authorities.

3 “(6) REFERRAL TO AND ACTION BY LAW EN-
4 FORCEMENT AND JUDICIAL AUTHORITIES.—

5 “(A) IN GENERAL.—Nothing in this part
6 shall be construed to prohibit an agency from
7 reporting a crime committed by a child with a
8 disability to appropriate authorities or to pre-
9 vent State law enforcement and judicial au-
10 thorities from exercising their responsibilities
11 with regard to the application of Federal and
12 State law to crimes committed by a child with
13 a disability.

14 “(B) TRANSMISSION OF RECORDS.—An
15 agency reporting a crime committed by a child
16 with a disability shall ensure that copies of the
17 special education and disciplinary records of the
18 child are transmitted for consideration by the
19 appropriate authorities to whom it reports the
20 crime.”.

21 (l) RULE OF CONSTRUCTION.—Section 615 of the In-
22 dividuals with Disabilities Education Act (20 U.S.C.
23 1415) is amended by redesignating subsection (l) as sub-
24 section (k).

1 (m) TRANSFER OF PARENTAL RIGHTS AT AGE OF
2 MAJORITY.—Section 615 of the Individuals with Disabil-
3 ities Education Act (20 U.S.C. 1415) is amended—

4 (1) by redesignating subsection (m) as sub-
5 section (l); and

6 (2) by amending subsection (l) (as redesign-
7 nated) to read as follows:

8 “(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF
9 MAJORITY.—

10 “(1) IN GENERAL.—A State that receives
11 amounts from a grant under this part may provide
12 that, when a child with a disability reaches the age
13 of majority under State law (except for a child with
14 a disability who has been determined to be incom-
15 petent under State law)—

16 “(A) the public agency shall provide any
17 notice required by this section to both the indi-
18 vidual and the parents;

19 “(B) all other rights accorded to parents
20 under this part transfer to the child;

21 “(C) the agency shall notify the individual
22 and the parents of the transfer of rights; and

23 “(D) all rights accorded to parents under
24 this part transfer to children who are incarcer-

1 ated in an adult or juvenile Federal, State, or
2 local correctional institution.

3 “(2) SPECIAL RULE.—If, under State law, a
4 child with a disability who has reached the age of
5 majority under State law, who has not been deter-
6 mined to be incompetent, but who is determined not
7 to have the ability to provide informed consent with
8 respect to the educational program of the child, the
9 State shall establish procedures for appointing the
10 parent of the child, or if the parent is not available,
11 another appropriate individual, to represent the edu-
12 cational interests of the child throughout the period
13 of eligibility of the child under this part.”.

14 **SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING,**
15 **AND JUDICIAL REVIEW.**

16 Section 616 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1416) is amended—

18 (1) by amending the heading to read as follows:

19 **“SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING,**
20 **AND JUDICIAL REVIEW.”;**

21 (2) by redesignating subsections (a) through (c)
22 as subsections (e) through (g), respectively; and

23 (3) by inserting before subsection (e) (as redес-
24 ignated) the following:

25 “(a) FEDERAL MONITORING.—

1 “(1) IN GENERAL.—The Secretary shall mon-
2 itor implementation of this Act.

3 “(2) FOCUSED MONITORING.—The primary
4 focus of Federal monitoring activities shall be to im-
5 prove educational results for all children with dis-
6 abilities, while ensuring compliance with program re-
7 quirements, with a particular emphasis on those re-
8 quirements that are most closely related to improv-
9 ing educational results for children with disabilities.

10 “(b) INDICATORS.—

11 “(1) REQUIRED INDICATORS.—The Secretary
12 shall examine relevant information and data related
13 to States’ progress on improving educational results
14 for children with disabilities by reviewing—

15 “(A) achievement results of children with
16 disabilities on State or district assessments, in-
17 cluding children with disabilities taking State or
18 district assessments with appropriate accom-
19 modations;

20 “(B) achievement results of children with
21 disabilities on State or district alternate assess-
22 ments;

23 “(C) graduation rates of children with dis-
24 abilities and graduation rates of children with

1 disabilities as compared to graduation rates of
2 nondisabled children; and

3 “(D) dropout rates for children with dis-
4 abilities and dropout rates of children with dis-
5 abilities as compared to dropout rates of non-
6 disabled children.

7 “(2) PERMISSIVE INDICATORS.—The Secretary
8 also may establish other priorities for review of rel-
9 evant information and data, including data provided
10 by States under section 618, and also including the
11 following:

12 “(A) PRIORITIES FOR THIS PART.—The
13 Secretary may give priority to monitoring on
14 the following areas under this part:

15 “(i) Provision of educational services
16 in the least restrictive environment, includ-
17 ing—

18 “(I) education of children with
19 disabilities with nondisabled peers to
20 the maximum extent appropriate;

21 “(II) provision of appropriate
22 special education and related services;

23 “(III) access to the general cur-
24 riculum with appropriate accommoda-
25 tions;

1 “(IV) provision of appropriate
2 services to students whose behavior
3 impedes learning; and

4 “(V) participation and perform-
5 ance of children with disabilities on
6 State and local assessments, including
7 alternate assessments.

8 “(ii) Secondary transition, including
9 the extent to which youth exiting special
10 education are prepared for post-secondary
11 education, employment, and adult life, and
12 are participants in appropriate transition
13 planning while in school.

14 “(iii) State exercise of general super-
15 visory authority, including effective moni-
16 toring and use of complaint resolution, me-
17 diation, and voluntary binding arbitration.

18 “(B) PRIORITIES FOR PART C.—The Sec-
19 retary may give priority to monitoring on the
20 following areas under part C:

21 “(i) Child find and public awareness
22 to support the identification, evaluation
23 and assessment of all eligible infants and
24 toddlers, including the provision of cul-

1 turally relevant materials to inform and
2 promote referral.

3 “(ii) Provision of early intervention
4 services in natural environments, evalua-
5 tion and assessment to identify child needs
6 and family needs related to enhancing the
7 development of the child, and provision of
8 appropriate early intervention services in
9 natural environments to meet the needs of
10 individual children.

11 “(iii) Effective early childhood transi-
12 tion to services under this part.

13 “(iv) State exercise of general super-
14 visory authority, including—

15 “(I) effective monitoring and use
16 of other mechanisms such as com-
17 plaint resolution;

18 “(II) implementation of medi-
19 ation and voluntary binding arbitra-
20 tion; and

21 “(III) coordination of parent and
22 child protections.

23 “(3) DATA COLLECTION AND ANALYSIS.—The
24 Secretary shall review the data collection and anal-
25 ysis capacity of States to ensure that data and infor-

1 mation is collected, analyzed, and accurately re-
2 ported to the Secretary. The Secretary may provide
3 technical assistance to improve the capacity of
4 States to meet data requirements.

5 “(c) ADDITIONAL PRIORITIES.—

6 “(1) IN GENERAL.—The Secretary may develop
7 additional priorities for monitoring the effective im-
8 plementation of this Act.

9 “(2) PUBLIC COMMENT.—The Secretary shall
10 provide a public comment period of at least 30 days
11 on any additional priority proposed under this part
12 or part C.

13 “(3) DATE OF ENFORCEMENT.—The Secretary
14 may not begin to enforce a new priority until one
15 year from the date of publication of the priority in
16 the Federal Register as a final rule.

17 “(d) COMPLIANCE.—

18 “(1) IN GENERAL.—The Secretary shall review
19 State data to determine whether the State is in com-
20 pliance with the provisions of this Act.

21 “(2) LACK OF PROGRESS.—If after examining
22 data, as provided in section (b) or (c), the Secretary
23 determines that a State is not making satisfactory
24 progress in improving educational results for chil-

1 dren with disabilities, the Secretary shall take one or
2 more of the following actions:

3 “(A) Advise the State of available sources
4 of technical assistance that may help the State
5 address the lack of progress, which may include
6 assistance from the Office of Special Education
7 Programs, other offices of the Department of
8 Education, other Federal agencies, technical as-
9 sistance providers approved by the Secretary,
10 and other federally funded nonprofit agencies.
11 Such technical assistance may include—

12 “(i) the provision of advice by experts
13 to address the areas of noncompliance, in-
14 cluding explicit plans for ensuring compli-
15 ance within a specified period of time;

16 “(ii) assistance in identifying and im-
17 plementing professional development, in-
18 structional strategies, and methods of in-
19 struction that are based on scientifically
20 based research;

21 “(iii) designating and using distin-
22 guished superintendents, principals, special
23 education administrators, regular edu-
24 cation teachers, and special education

1 teachers to provide advice, technical assist-
2 ance, and support; and

3 “(iv) devising additional approaches to
4 providing technical assistance, such as col-
5 laborating with institutions of higher edu-
6 cation, educational service agencies, na-
7 tional centers of technical assistance sup-
8 ported under part D, and private providers
9 of scientifically based technical assistance.

10 “(B) Direct the use of State level funds for
11 technical assistance on the area or areas of un-
12 satisfactory performance.

13 “(C) Each year withhold at least 20 but no
14 more than 50 percent of the State’s funds
15 under section 611(e), after providing the State
16 the opportunity to show cause why the with-
17 holding should not occur, until the Secretary
18 determines that sufficient progress has been
19 made in improving educational results for chil-
20 dren with disabilities.

21 “(3) SUBSTANTIAL NON-COMPLIANCE.—

22 “(A) INITIAL DETERMINATION.—When the
23 Secretary determines that a State is not in sub-
24 stantial compliance with any provision of this

1 part, the Secretary shall take one or more of
2 the following actions:

3 “(i) Request that the State prepare a
4 corrective action plan or improvement plan
5 if the Secretary determines that the State
6 should be able to correct the problem with-
7 in one year.

8 “(ii) Identify the State as a high-risk
9 grantee and impose special conditions on
10 the State’s grant.

11 “(iii) Require the State to enter into
12 a compliance agreement under section 457
13 of the General Education Provisions Act, if
14 the Secretary has reason to believe that
15 the State cannot correct the problem with-
16 in one year.

17 “(iv) Recovery of funds under section
18 452 of the General Education Provisions
19 Act.

20 “(v)(I) Withholding of payments
21 under subsection (e).

22 “(II) Pending the outcome of any
23 hearing to withhold payments under sub-
24 section (e), the Secretary may suspend
25 payments to a recipient, suspend the au-

1 thority of the recipient to obligate Federal
2 funds, or both, after such recipient has
3 been given reasonable notice and an oppor-
4 tunity to show cause why future payments
5 or authority to obligate Federal funds
6 should not be suspended.

7 “(B) CONTINUED NON-COMPLIANCE.—

8 “(i) SECRETARIAL ACTION.—If the
9 Secretary has imposed special conditions
10 on a grant under subparagraph (A)(ii) for
11 substantially the same compliance prob-
12 lems for three consecutive years, and at
13 the end of the third year the State has not
14 demonstrated that the violation has been
15 corrected to the satisfaction of the Sec-
16 retary, the Secretary shall take such addi-
17 tional enforcement actions as the Secretary
18 determines to be appropriate from among
19 those actions specified in clauses (iii)
20 through (v) of subparagraph (A).

21 “(ii) REPORT TO CONGRESS.—The
22 Secretary shall report to Congress within
23 30 days of taking enforcement action pur-
24 suant to this paragraph on the specific ac-

1 tion taken and the reasons why enforce-
2 ment action was taken.”.

3 **SEC. 207. ADMINISTRATION.**

4 Section 617 of the Individuals with Disabilities Edu-
5 cation Act (20 U.S.C. 1417) is amended to read as follows:

6 **“SEC. 617. ADMINISTRATION.**

7 “(a) RESPONSIBILITIES OF SECRETARY.—In car-
8 rying out this part, the Secretary shall—

9 “(1) cooperate with, and (directly or by grant
10 or contract) furnish technical assistance necessary
11 to, the State in matters relating to—

12 “(A) the education of children with disabil-
13 ities; and

14 “(B) carrying out this part; and

15 “(2) provide short-term training programs and
16 institutes.

17 “(b) PROHIBITION AGAINST FEDERAL MANDATES,
18 DIRECTION, OR CONTROL.—Nothing in this Act may be
19 construed to authorize an officer or employee of the Fed-
20 eral Government to mandate, direct, or control a State,
21 local educational agency, or school’s specific instructional
22 content, academic achievement standards and assess-
23 ments, curriculum, or program of instruction.

24 “(c) CONFIDENTIALITY.—The Secretary shall take
25 appropriate action, in accordance with section 444 of the

1 General Education Provisions Act (20 U.S.C. 1232g), to
2 ensure the protection of the confidentiality of any person-
3 ally identifiable data, information, and records collected
4 or maintained by the Secretary and by State and local
5 educational agencies pursuant to this part.

6 “(d) PERSONNEL.—The Secretary is authorized to
7 hire qualified personnel necessary to carry out the Sec-
8 retary’s duties under subsection (a) and under sections
9 618 and 661 without regard to the provisions of title 5,
10 United States Code, relating to appointments in the com-
11 petitive service and without regard to chapter 51 and sub-
12 chapter III of chapter 53 of such title relating to classi-
13 fication and general schedule pay rates, except that no
14 more than twenty such personnel shall be employed at any
15 time.

16 “(e) PILOT PROGRAM.—The Secretary is authorized
17 to grant waivers of paperwork requirements under this
18 part for a period of time not to exceed 4 years with respect
19 to not more than 10 States based on proposals submitted
20 by States for addressing reduction of paperwork and non-
21 instructional time spent fulfilling statutory and regulatory
22 requirements.

23 “(f) REPORT.—The Secretary shall include in the an-
24 nual report to Congress under section 426 of the Depart-
25 ment of Education Organization Act information related

1 to the effectiveness of waivers granted under subsection
2 (e)—

3 “(1) in reducing the paperwork burden on
4 teachers, administrators, and related services pro-
5 viders and non-instructional time spent by teachers
6 in complying with this part, including any specific
7 recommendations for broader implementation; and

8 “(2) in enhancing longer-term educational plan-
9 ning, improving positive outcomes for children with
10 disabilities, promoting collaboration between IEP
11 Team members, and ensuring satisfaction of family
12 members, including any specific recommendations
13 for broader implementation.

14 “(g) MODEL FORMS.—Not later than the date on
15 which the Secretary publishes final regulations to imple-
16 ment this part (as amended by the Improving Education
17 Results for Children With Disabilities Act of 2003), the
18 Secretary shall publish and disseminate widely to States,
19 local educational agencies, and parent training and infor-
20 mation centers—

21 “(1) a model individualized education program
22 form;

23 “(2) a model form for the procedural safe-
24 guards notice described in section 615(d); and

1 “(3) a model form for the prior written notice
2 described in section 615(b)(3);
3 that would be consistent with the requirements of this part
4 and be deemed to be sufficient to meet such require-
5 ments.”.

6 **SEC. 208. PROGRAM INFORMATION.**

7 Section 618 of the Individuals with Disabilities Edu-
8 cation Act (20 U.S.C. 1418) is amended to read as follows:

9 **“SEC. 618. PROGRAM INFORMATION.**

10 “(a) IN GENERAL.—Each State and local educational
11 agency that receives assistance under this part, and the
12 Secretary of the Interior, shall provide data each year to
13 the Secretary—

14 “(1)(A) on—

15 “(i) the number and percentage of children
16 with disabilities, by race, ethnicity, and dis-
17 ability category, who are receiving a free appro-
18 priate public education;

19 “(ii) the number and percentage of chil-
20 dren with disabilities, by race and ethnicity,
21 who are receiving early intervention services;

22 “(iii) the number and percentage of chil-
23 dren with disabilities, by race, ethnicity, and
24 disability category, who are participating in reg-
25 ular education;

1 “(iv) the number and percentage of chil-
2 dren with disabilities, by race, ethnicity, and
3 disability category, who are in separate classes,
4 separate schools or facilities, or public or pri-
5 vate residential facilities;

6 “(v) the number and percentage of chil-
7 dren with disabilities, by race and ethnicity, and
8 disability category who begin secondary school
9 and graduate with a regular high school di-
10 ploma, through the age of 21;

11 “(vi) the number and percentage of chil-
12 dren with disabilities, by race, ethnicity, and
13 disability category, who, for each year of age
14 from age 14 to 21, stopped receiving special
15 education and related services because of pro-
16 gram completion or other reasons and the rea-
17 sons why those children stopped receiving spe-
18 cial education and related services;

19 “(vii) the number and percentage of chil-
20 dren with disabilities, by race and ethnicity,
21 who, from birth through age 2, stopped receiv-
22 ing early intervention services because of pro-
23 gram completion or for other reasons;

24 “(viii)(I) the number and percentage of
25 children with disabilities, by race, ethnicity, and

1 disability category, who under subparagraph
2 (A) or (B) of section 615(j)(1), are removed to
3 an interim alternative educational setting;

4 “(II) the acts or items precipitating those
5 removals;

6 “(III) the number of children with disabil-
7 ities, by race, ethnicity, and disability category,
8 who are subject to long-term suspensions or ex-
9 pulsions; and

10 “(IV) the incidence, duration, and type of
11 disciplinary actions, by race and ethnicity, in-
12 cluding suspension and expulsions;

13 “(ix) the number of complaints resolved
14 through voluntary binding arbitration; and

15 “(x) the number of mediations held and
16 the number of settlement agreements reached
17 through mediation;

18 “(B) on the number and percentage of infants
19 and toddlers, by race and ethnicity, who are at risk
20 of having substantial developmental delays (as de-
21 fined in section 632), and who are receiving early
22 intervention services under part C; and

23 “(C) on the number of children served with
24 funds under section 613(f); and

1 “(2) on any other information that may be re-
2 quired by the Secretary.

3 “(b) SAMPLING.—The Secretary may permit States
4 and the Secretary of the Interior to obtain the data de-
5 scribed in subsection (a) through sampling.

6 “(c) DISPROPORTIONALITY.—

7 “(1) IN GENERAL.—Each State that receives
8 assistance under this part, and the Secretary of the
9 Interior, shall provide for the collection and exam-
10 ination of data to determine if significant
11 disproportionality based on race and ethnicity is oc-
12 curring in the State and the local educational agen-
13 cies of the State with respect to—

14 “(A) the identification of children as chil-
15 dren with disabilities, including the identifica-
16 tion of children as children with disabilities in
17 accordance with a particular impairment de-
18 scribed in section 602(3);

19 “(B) the placement in particular edu-
20 cational settings of such children; and

21 “(C) the incidence, duration, and type of
22 disciplinary actions, including suspensions and
23 expulsions.

24 “(2) REVIEW AND REVISION OF POLICIES,
25 PRACTICES, AND PROCEDURES.—In the case of a de-

1 termination of significant disproportionality with re-
2 spect to the identification of children as children
3 with disabilities, or the placement in particular edu-
4 cational settings of such children, in accordance with
5 paragraph (1), the State or the Secretary of the In-
6 terior, as the case may be—

7 “(A) shall provide for the review and, if
8 appropriate, revision of the policies, procedures,
9 and practices used in such identification or
10 placement to ensure that such policies, proce-
11 dures, and practices comply with the require-
12 ments of this Act;

13 “(B) shall require any local educational
14 agency identified under paragraph (1) to re-
15 serve the maximum amount of funds under sec-
16 tion 613(f) to provide comprehensive coordi-
17 nated prereferral support services to serve chil-
18 dren in the local educational agency, particu-
19 larly children in those groups that were signifi-
20 cantly overidentified under paragraph (1); and

21 “(C) shall require the local educational
22 agency to publicly report on the revision of poli-
23 cies, practices, and procedures described under
24 subparagraph (A).”.

1 **SEC. 209. PRESCHOOL GRANTS.**

2 Section 619 of the Individuals with Disabilities Edu-
3 cation Act (20 U.S.C. 1419) is amended to read as follows:

4 **“SEC. 619. PRESCHOOL GRANTS.**

5 “(a) IN GENERAL.—The Secretary shall provide
6 grants under this section to assist States to provide special
7 education and related services, in accordance with this
8 part—

9 “(1) to children with disabilities aged 3 through
10 5, inclusive; and

11 “(2) at the State’s discretion, to 2-year-old chil-
12 dren with disabilities who will turn 3 during the
13 school year.

14 “(b) ELIGIBILITY.—A State shall be eligible for a
15 grant under this section if such State—

16 “(1) is eligible under section 612 to receive a
17 grant under this part; and

18 “(2) makes a free appropriate public education
19 available to all children with disabilities, aged 3
20 through 5, residing in the State.

21 “(c) ALLOCATIONS TO STATES.—

22 “(1) IN GENERAL.—The Secretary shall allo-
23 cate funds among the States in accordance with
24 paragraph (2) or (3), as appropriate.

25 “(2) INCREASE IN FUNDS.—If the amount
26 available for allocations to States under paragraph

1 (1) is equal to or greater than the amount allocated
2 to the States under this section for the preceding
3 fiscal year, those allocations shall be calculated as
4 follows:

5 “(A)(i) Except as provided in subpara-
6 graph (B), the Secretary shall—

7 “(I) allocate to each State the amount
8 it received for fiscal year 1997;

9 “(II) allocate 85 percent of any re-
10 maining funds to States on the basis of
11 their relative populations of children aged
12 3 through 5; and

13 “(III) allocate 15 percent of those re-
14 maining funds to States on the basis of
15 their relative populations of all children
16 aged 3 through 5 who are living in poverty.

17 “(ii) For the purpose of making grants
18 under this paragraph, the Secretary shall use
19 the most recent population data, including data
20 on children living in poverty, that are available
21 and satisfactory to the Secretary.

22 “(B) Notwithstanding subparagraph (A),
23 allocations under this paragraph shall be sub-
24 ject to the following:

1 “(i) No State’s allocation shall be less
2 than its allocation for the preceding fiscal
3 year.

4 “(ii) No State’s allocation shall be less
5 than the greatest of—

6 “(I) the sum of—

7 “(aa) the amount it received
8 for fiscal year 1997; and

9 “(bb) one third of one per-
10 cent of the amount by which the
11 amount appropriated under sub-
12 section (j) exceeds the amount
13 appropriated under this section
14 for fiscal year 1997;

15 “(II) the sum of—

16 “(aa) the amount it received
17 for the preceding fiscal year; and

18 “(bb) that amount multi-
19 plied by the percentage by which
20 the increase in the funds appro-
21 priated from the preceding fiscal
22 year exceeds 1.5 percent; or

23 “(III) the sum of—

24 “(aa) the amount it received
25 for the preceding fiscal year; and

1 “(bb) that amount multi-
2 plied by 90 percent of the per-
3 centage increase in the amount
4 appropriated from the preceding
5 fiscal year.

6 “(iii) Notwithstanding clause (ii), no
7 State’s allocation under this paragraph
8 shall exceed the sum of—

9 “(I) the amount it received for
10 the preceding fiscal year; and

11 “(II) that amount multiplied by
12 the sum of 1.5 percent and the per-
13 centage increase in the amount appro-
14 priated.

15 “(C) If the amount available for allocations
16 under this paragraph is insufficient to pay
17 those allocations in full, those allocations shall
18 be ratably reduced, subject to subparagraph
19 (B)(i).

20 “(3) DECREASE IN FUNDS.—If the amount
21 available for allocations to States under paragraph
22 (1) is less than the amount allocated to the States
23 under this section for the preceding fiscal year, those
24 allocations shall be calculated as follows:

1 “(A) If the amount available for allocations
2 is greater than the amount allocated to the
3 States for fiscal year 1997, each State shall be
4 allocated the sum of—

5 “(i) the amount it received for fiscal
6 year 1997; and

7 “(ii) an amount that bears the same
8 relation to any remaining funds as the in-
9 crease the State received for the preceding
10 fiscal year over fiscal year 1997 bears to
11 the total of all such increases for all
12 States.

13 “(B) If the amount available for alloca-
14 tions is equal to or less than the amount allo-
15 cated to the States for fiscal year 1997, each
16 State shall be allocated the amount it received
17 for that year, ratably reduced, if necessary.

18 “(d) RESERVATION FOR STATE ACTIVITIES.—

19 “(1) IN GENERAL.—Each State may retain not
20 more than the amount described in paragraph (2)
21 for administration and other State-level activities in
22 accordance with subsections (e) and (f).

23 “(2) AMOUNT DESCRIBED.—For each fiscal
24 year, the Secretary shall determine and report to the
25 State educational agency an amount that is 25 per-

1 cent of the amount the State received under this sec-
2 tion for fiscal year 1997, cumulatively adjusted by
3 the Secretary for each succeeding fiscal year by the
4 lesser of—

5 “(A) the percentage increase, if any, from
6 the preceding fiscal year in the State’s alloca-
7 tion under this section; or

8 “(B) the percentage increase, if any, from
9 the preceding fiscal year in the Consumer Price
10 Index For All Urban Consumers published by
11 the Bureau of Labor Statistics of the Depart-
12 ment of Labor.

13 “(e) STATE ADMINISTRATION.—

14 “(1) IN GENERAL.—For the purpose of admin-
15 istering this section (including the coordination of
16 activities under this part with, and providing tech-
17 nical assistance to, other programs that provide
18 services to children with disabilities) a State may
19 use not more than 20 percent of the maximum
20 amount it may retain under subsection (d) for any
21 fiscal year.

22 “(2) ADMINISTRATION OF PART C.—Funds de-
23 scribed in paragraph (1) may also be used for the
24 administration of part C of this Act, if the State

1 educational agency is the lead agency for the State
2 under that part.

3 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
4 shall use any funds it retains under subsection (d) and
5 does not use for administration under subsection (e)—

6 “(1) for support services (including establishing
7 and implementing the mediation and voluntary bind-
8 ing arbitration process required by section 615(e)),
9 which may benefit children with disabilities younger
10 than 3 or older than 5 as long as those services also
11 benefit children with disabilities aged 3 through 5;

12 “(2) for direct services for children eligible for
13 services under this section;

14 “(3) for activities at the State and local levels
15 to meet the performance goals established by the
16 State under section 612(a)(16) and to support im-
17 plementation of the State plan under subpart 1 of
18 part D if the State receives funds under that sub-
19 part; or

20 “(4) to supplement other funds used to develop
21 and implement a Statewide coordinated services sys-
22 tem designed to improve results for children and
23 families, including children with disabilities and their
24 families, but not to exceed one percent of the

1 amount received by the State under this section for
2 a fiscal year.

3 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
4 CIES.—

5 “(1) SUBGRANTS REQUIRED.—Each State that
6 receives a grant under this section for any fiscal
7 year shall distribute all of the grant funds that it
8 does not reserve under subsection (d) to local edu-
9 cational agencies in the State that have established
10 their eligibility under section 613, as follows:

11 “(A) BASE PAYMENTS.—The State shall
12 first award each agency described in paragraph
13 (1) the amount that agency would have received
14 under this section for fiscal year 1997 if the
15 State had distributed 75 percent of its grant for
16 that year under section 619(c)(3), as then in ef-
17 fect.

18 “(B) ALLOCATION OF REMAINING
19 FUNDS.—After making allocations under sub-
20 paragraph (A), the State shall—

21 “(i) allocate 85 percent of any re-
22 maining funds to those agencies on the
23 basis of the relative numbers of children
24 enrolled in public and private elementary

1 and secondary schools within the agency’s
2 jurisdiction; and

3 “(ii) allocate 15 percent of those re-
4 maining funds to those agencies in accord-
5 ance with their relative numbers of chil-
6 dren living in poverty, as determined by
7 the State educational agency.

8 “(2) REALLOCATION OF FUNDS.—If a State
9 educational agency determines that a local edu-
10 cational agency is adequately providing a free appro-
11 priate public education to all children with disabil-
12 ities aged 3 through 5 residing in the area served by
13 that agency with State and local funds, the State
14 educational agency may reallocate any portion of the
15 funds under this section that are not needed by that
16 local agency to provide a free appropriate public
17 education to other local educational agencies in the
18 State that are not adequately providing special edu-
19 cation and related services to all children with dis-
20 abilities aged 3 through 5 residing in the areas they
21 serve.

22 “(h) PART C INAPPLICABLE.—Part C of this Act
23 does not apply to any child with a disability receiving a
24 free appropriate public education, in accordance with this
25 part, with funds received under this section.

1 “(i) DEFINITION.—For the purpose of this section,
2 the term ‘State’ means each of the 50 States, the District
3 of Columbia, and the Commonwealth of Puerto Rico.

4 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
5 purpose of carrying out this section, there are authorized
6 to be appropriated to the Secretary \$500,000,000 for fis-
7 cal year 2004 and such sums as may be necessary for each
8 subsequent fiscal year.”.

9 **TITLE III—INFANTS AND**
10 **TODDLERS WITH DISABILITIES**

11 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
12 **WITH DISABILITIES EDUCATION ACT.**

13 Sections 631 through 638 of the Individuals with
14 Disabilities Education Act (20 U.S.C. 1431–1438) are
15 amended to read as follows:

16 **“SEC. 631. FINDINGS AND POLICY.**

17 “(a) FINDINGS.—The Congress finds that there is an
18 urgent and substantial need—

19 “(1) to enhance the development of infants and
20 toddlers with disabilities and to minimize their po-
21 tential for developmental delay;

22 “(2) to reduce the educational costs to our soci-
23 ety, including our Nation’s schools, by minimizing
24 the need for special education and related services

1 after infants and toddlers with disabilities reach
2 school age;

3 “(3) to minimize the likelihood of institutional-
4 ization of individuals with disabilities and maximize
5 the potential for their independently living in society;

6 “(4) to enhance the capacity of families to meet
7 the special needs of their infants and toddlers with
8 disabilities; and

9 “(5) to enhance the capacity of State and local
10 agencies and service providers to identify, evaluate,
11 and meet the needs of historically underrepresented
12 populations, particularly minority, low-income, inner-
13 city, and rural populations.

14 “(b) POLICY.—It is the policy of the United States
15 to provide financial assistance to States—

16 “(1) to develop and implement a statewide,
17 comprehensive, coordinated, multidisciplinary, inter-
18 agency system that provides early intervention serv-
19 ices for infants and toddlers with disabilities and
20 their families;

21 “(2) to facilitate the coordination of payment
22 for early intervention services from Federal, State,
23 local, and private sources (including public and pri-
24 vate insurance coverage);

1 “(3) to enhance their capacity to provide qual-
2 ity early intervention services and expand and im-
3 prove existing early intervention services being pro-
4 vided to infants and toddlers with disabilities and
5 their families; and

6 “(4) to encourage States to expand opportuni-
7 ties for children under 3 years of age who would be
8 at risk of having substantial developmental delay if
9 they did not receive early intervention services.

10 **“SEC. 632. DEFINITIONS.**

11 “As used in this part:

12 “(1) **AT-RISK INFANT OR TODDLER.**—The term
13 ‘at-risk infant or toddler’ means an individual under
14 3 years of age who would be at risk of experiencing
15 a substantial developmental delay if early interven-
16 tion services were not provided to the individual.

17 “(2) **COUNCIL.**—The term ‘council’ means a
18 State interagency coordinating council established
19 under section 641.

20 “(3) **DEVELOPMENTAL DELAY.**—The term ‘de-
21 velopmental delay’, when used with respect to an in-
22 dividual residing in a State, has the meaning given
23 such term by the State under section 635(a)(1).

1 “(4) EARLY INTERVENTION SERVICES.—The
2 term ‘early intervention services’ means develop-
3 mental services that—

4 “(A) are provided under public supervision;

5 “(B) are provided at no cost except where
6 Federal or State law provides for a system of
7 payments by families, including a schedule of
8 sliding fees;

9 “(C) are designed to address family-identi-
10 fied priorities and concerns that are determined
11 by individualized family service plan team to re-
12 late to enhancing the child’s development in any
13 one or more of the following areas—

14 “(i) physical development;

15 “(ii) cognitive development;

16 “(iii) communication development;

17 “(iv) social or emotional development;

18 or

19 “(v) adaptive development;

20 “(D) meet the standards of the State in
21 which they are provided, including the require-
22 ments of this part;

23 “(E) include—

24 “(i) family training, family therapy,
25 counseling, and home visits;

- 1 “(ii) special instruction;
- 2 “(iii) speech-language pathology and
- 3 audiology services;
- 4 “(iv) occupational therapy;
- 5 “(v) physical therapy;
- 6 “(vi) psychological services;
- 7 “(vii) service coordination services;
- 8 “(viii) medical services only for diag-
- 9 nostic or evaluation purposes;
- 10 “(ix) early identification, screening,
- 11 and assessment services;
- 12 “(x) health services necessary to en-
- 13 able the infant or toddler to benefit from
- 14 the other early intervention services;
- 15 “(xi) social work services;
- 16 “(xii) vision services;
- 17 “(xiii) assistive technology devices and
- 18 assistive technology services; and
- 19 “(xiv) transportation and related costs
- 20 that are necessary to enable an infant or
- 21 toddler and the infant’s or toddler’s family
- 22 to receive another service described in this
- 23 paragraph;
- 24 “(F) are provided by qualified personnel,
- 25 including—

- 1 “(i) special educators;
- 2 “(ii) speech-language pathologists and
- 3 audiologists;
- 4 “(iii) occupational therapists;
- 5 “(iv) physical therapists;
- 6 “(v) psychologists;
- 7 “(vi) social workers;
- 8 “(vii) nurses;
- 9 “(viii) registered dietitians;
- 10 “(ix) family therapists;
- 11 “(x) vision specialists, including oph-
- 12 thalmologists and optometrists;
- 13 “(xi) orientation and mobility special-
- 14 ists; and
- 15 “(xii) pediatricians and other physi-
- 16 cians;
- 17 “(G) to the maximum extent appropriate,
- 18 are provided in natural environments, including
- 19 the home, and community settings in which
- 20 children without disabilities participate; and
- 21 “(H) are provided in conformity with an
- 22 individualized family service plan adopted in ac-
- 23 cordance with section 636.

1 “(5) INFANT OR TODDLER WITH A DIS-
2 ABILITY.—The term ‘infant or toddler with a dis-
3 ability’—

4 “(A) means an individual under 3 years of
5 age who needs early intervention services be-
6 cause the individual—

7 “(i) is experiencing developmental
8 delays, as measured by appropriate diag-
9 nostic instruments and procedures in one
10 or more of the areas of cognitive develop-
11 ment, physical development, communica-
12 tion development, social or emotional devel-
13 opment, and adaptive development; or

14 “(ii) has a diagnosed physical or men-
15 tal condition which has a high probability
16 of resulting in developmental delay;

17 “(B) may also include, at a State’s discre-
18 tion, at-risk infants and toddlers; and

19 “(C) may also include, at a State’s discre-
20 tion, a child aged 3 through 5, who previously
21 received services under this part and who is eli-
22 gible for services under section 619, if—

23 “(i) services provided to this age
24 group under this part include an edu-
25 cational component that promotes school

1 readiness and incorporates scientifically
2 based pre-literacy, language, and numeracy
3 skills; and

4 “(ii) parents are provided a written
5 notification of their rights and responsibil-
6 ities in determining whether their child will
7 continue to receive services under this part
8 or participate in preschool programs as-
9 sisted under section 619.

10 **“SEC. 633. GENERAL AUTHORITY.**

11 “The Secretary shall, in accordance with this part,
12 make grants to States (from their allotments under sec-
13 tion 643) to assist each State to maintain and implement
14 a statewide, comprehensive, coordinated, multidisciplinary,
15 interagency system to provide early intervention services
16 for infants and toddlers with disabilities and their families.

17 **“SEC. 634. ELIGIBILITY.**

18 “In order to be eligible for a grant under section 633,
19 a State shall provide assurances to the Secretary that the
20 State—

21 “(1) has adopted a policy that appropriate early
22 intervention services are available to all infants and
23 toddlers with disabilities in the State and their fami-
24 lies, including Indian infants and toddlers with dis-

1 abilities and their families residing on a reservation
2 geographically located in the State; and

3 “(2) has in effect a statewide system that meets
4 the requirements of section 635.

5 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

6 “(a) IN GENERAL.—A statewide system described in
7 section 633 shall include, at a minimum, the following
8 components:

9 “(1) A definition of the term ‘developmental
10 delay’ that will be used by the State in carrying out
11 programs under this part.

12 “(2) A State policy that is in effect and that
13 ensures that appropriate early intervention services
14 based on scientifically based research are available to
15 all infants and toddlers with disabilities and their
16 families, including Indian infants and toddlers and
17 their families residing on a reservation geographi-
18 cally located in the State.

19 “(3) A timely, comprehensive, multidisciplinary
20 evaluation of the functioning of each infant or tod-
21 dler with a disability in the State, and a family-di-
22 rected identification of the needs of each family of
23 such an infant or toddler, to appropriately assist in
24 the development of the infant or toddler.

1 “(4) For each infant or toddler with a disability
2 in the State, an individualized family service plan in
3 accordance with section 636, including service co-
4 ordination services in accordance with such service
5 plan.

6 “(5) A comprehensive child find system, con-
7 sistent with part B, including a system for making
8 referrals to service providers that includes timelines
9 and provides for participation by primary referral
10 sources.

11 “(6) A public awareness program focusing on
12 early identification of infants and toddlers with dis-
13 abilities, including the preparation and dissemination
14 by the lead agency designated or established under
15 paragraph (10) to all primary referral sources, espe-
16 cially hospitals and physicians, of information to be
17 given to parents, especially to inform parents with
18 premature infants, or infants with other physical
19 risk factors associated with learning or develop-
20 mental complications, on the availability of early
21 intervention services under this part and of services
22 under section 619 of this Act, and procedures for as-
23 sisting such sources in disseminating such informa-
24 tion to parents of infants and toddlers.

1 “(7) A central directory that includes informa-
2 tion on early intervention services, resources, and ex-
3 perts available in the State and research and dem-
4 onstration projects being conducted in the State.

5 “(8) A comprehensive system of personnel de-
6 velopment, including the training of paraprofes-
7 sionals and the training of primary referral sources
8 respecting the basic components of early intervention
9 services available in the State that—

10 “(A) shall include—

11 “(i) implementing innovative strate-
12 gies and activities for the recruitment and
13 retention of early education service pro-
14 viders;

15 “(ii) promoting the preparation of
16 early intervention providers who are fully
17 and appropriately qualified to provide early
18 intervention services under this part; and

19 “(iii) training personnel to coordinate
20 transition services for infants and toddlers
21 served under this part from a program
22 providing early intervention services under
23 this part and under part B (other than
24 section 619), to a preschool program re-

1 ceiving funds under section 619, or an-
2 other appropriate program; and

3 “(B) may include—

4 “(i) training personnel to work in
5 rural and inner-city areas; and

6 “(ii) training personnel in the emo-
7 tional and social development of young
8 children.

9 “(9) Subject to subsection (b), policies and pro-
10 cedures relating to the establishment and mainte-
11 nance of standards to ensure that personnel nec-
12 essary to carry out this part are appropriately and
13 adequately prepared and trained, including the es-
14 tablishment and maintenance of standards that are
15 consistent with any State-approved or recognized
16 certification, licensing, registration, or other com-
17 parable requirements that apply to the area in which
18 such personnel are providing early intervention serv-
19 ices.

20 “(10) A single line of responsibility in a lead
21 agency designated or established by the Governor for
22 carrying out—

23 “(A) the general administration and super-
24 vision of programs and activities receiving as-
25 sistance under section 633, and the monitoring

1 of programs and activities used by the State to
2 carry out this part, whether or not such pro-
3 grams or activities are receiving assistance
4 made available under section 633, to ensure
5 that the State complies with this part;

6 “(B) the identification and coordination of
7 all available resources within the State from
8 Federal, State, local, and private sources;

9 “(C) the assignment of financial responsi-
10 bility in accordance with section 637(a)(2) to
11 the appropriate agencies;

12 “(D) the development of procedures to en-
13 sure that services are provided to infants and
14 toddlers with disabilities and their families
15 under this part in a timely manner pending the
16 resolution of any disputes among public agen-
17 cies or service providers;

18 “(E) the resolution of intra- and inter-
19 agency disputes; and

20 “(F) the entry into formal interagency
21 agreements that define the financial responsi-
22 bility of each agency for paying for early inter-
23 vention services (consistent with State law) and
24 procedures for resolving disputes and that in-

1 clude all additional components necessary to en-
2 sure meaningful cooperation and coordination.

3 “(11) A policy pertaining to the contracting or
4 making of other arrangements with service providers
5 to provide early intervention services in the State,
6 consistent with the provisions of this part, including
7 the contents of the application used and the condi-
8 tions of the contract or other arrangements.

9 “(12) A procedure for securing timely reim-
10 bursements of funds used under this part in accord-
11 ance with section 640(a).

12 “(13) Procedural safeguards with respect to
13 programs under this part, as required by section
14 639.

15 “(14) A system for compiling data requested by
16 the Secretary under section 618 that relates to this
17 part.

18 “(15) A State interagency coordinating council
19 that meets the requirements of section 641.

20 “(16) Policies and procedures to ensure that,
21 consistent with section 636(d)(5)—

22 “(A) to the maximum extent appropriate,
23 early intervention services are provided in nat-
24 ural environments; and

1 “(B) the provision of early intervention
2 services for any infant or toddler occurs in a
3 setting other than a natural environment only
4 when early intervention cannot be achieved sat-
5 isfactorily for the infant or toddler in a natural
6 environment or in a setting that is most appro-
7 priate, as determined by the parent and the in-
8 dividualized family service plan team.

9 “(b) POLICY.—In implementing subsection (a)(9), a
10 State may adopt a policy that includes making ongoing
11 good-faith efforts to recruit and hire appropriately and
12 adequately trained personnel to provide early intervention
13 services to infants and toddlers with disabilities, including,
14 in a geographic area of the State where there is a shortage
15 of such personnel, the most qualified individuals available
16 who are making satisfactory progress toward completing
17 applicable course work necessary to meet the standards
18 described in subsection (a)(9), consistent with State law
19 within 3 years.

20 “(c) TREATMENT OF CHILDREN AGED 3 THROUGH
21 5.—

22 “(1) IN GENERAL.—If a State includes children
23 described in section 632(5)(C) in the system de-
24 scribed in section 633, the State shall be considered
25 to have fulfilled any obligation under part B with re-

1 spect to the provision of a free appropriate public
2 education to those children during the period in
3 which they are receiving services under this part.

4 “(2) CONSTRUCTION.—Nothing in paragraph
5 (1) shall be construed to alter or diminish the rights
6 and protections afforded under this part to children
7 described in such paragraph.

8 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

9 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—
10 A statewide system described in section 633 shall provide,
11 at a minimum, for each infant or toddler with a disability,
12 and the infant’s or toddler’s family, to receive—

13 “(1) a multidisciplinary assessment of the
14 unique strengths and needs of the infant or toddler
15 and the identification of services appropriate to meet
16 such needs;

17 “(2) a family-directed assessment of the re-
18 sources, priorities, and concerns of the family and
19 the identification of the supports and services nec-
20 essary to enhance the family’s capacity to meet the
21 developmental needs of the infant or toddler; and

22 “(3) a written individualized family service plan
23 developed by a multidisciplinary team, including the
24 parents, as required by subsection (e), including a

1 description of the appropriate transition services for
2 the child's entrance in school.

3 “(b) PERIODIC REVIEW.—The individualized family
4 service plan shall be evaluated once a year and the family
5 shall be provided a review of the plan at 6-month intervals
6 (or more often where appropriate based on infant or tod-
7 dler and family needs).

8 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
9 vidualized family service plan shall be developed within a
10 reasonable time after the assessment required by sub-
11 section (a)(1) is completed. With the parents' consent,
12 early intervention services may commence prior to the
13 completion of the assessment.

14 “(d) CONTENT OF PLAN.—The individualized family
15 service plan shall be in writing and contain—

16 “(1) a statement of the infant's or toddler's
17 present levels of physical development, cognitive de-
18 velopment, communication development, social or
19 emotional development, and adaptive development,
20 based on objective criteria;

21 “(2) a statement of the family's resources, pri-
22 orities, and concerns relating to enhancing the devel-
23 opment of the family's infant or toddler with a dis-
24 ability;

1 “(3) a statement of the major goals expected to
2 be achieved for the infant or toddler and the family,
3 including pre-literacy and language skills, as devel-
4 opmentally appropriate for the child, and the cri-
5 teria, procedures, and timelines used to determine
6 the degree to which progress toward achieving the
7 goals is being made and whether modifications or re-
8 visions of the goals or services are necessary;

9 “(4) a statement of specific early intervention
10 services based on peer-reviewed research, to the ex-
11 tent practicable, necessary to meet the unique needs
12 of the infant or toddler and the family, including the
13 frequency, intensity, and method of delivering serv-
14 ices;

15 “(5) a statement of the natural environments in
16 which early intervention services will appropriately
17 be provided, including a justification of the extent,
18 if any, to which the services will not be provided in
19 a natural environment;

20 “(6) the projected dates for initiation of serv-
21 ices and the anticipated length, duration, and fre-
22 quency of the services;

23 “(7) the identification of the service coordinator
24 from the profession most immediately relevant to the
25 infant’s or toddler’s or family’s needs (or who is oth-

1 erwise qualified to carry out all applicable respon-
2 sibilities under this part) who will be responsible for
3 the implementation of the plan and coordination
4 with other agencies and persons, including transition
5 services; and

6 “(8) the steps to be taken to support the transi-
7 tion of the toddler with a disability to preschool or
8 other appropriate services.

9 “(e) PARENTAL CONSENT.—The contents of the indi-
10 vidualized family service plan shall be fully explained to
11 the parents and informed written consent from the par-
12 ents shall be obtained prior to the provision of early inter-
13 vention services described in such plan. If the parents do
14 not provide consent with respect to a particular early
15 intervention service, then only the early intervention serv-
16 ices to which consent is obtained shall be provided.

17 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

18 “(a) APPLICATION.—A State desiring to receive a
19 grant under section 633 shall submit an application to the
20 Secretary at such time and in such manner as the Sec-
21 retary may reasonably require. The application shall con-
22 tain—

23 “(1) a designation of the lead agency in the
24 State that will be responsible for the administration
25 of funds provided under section 633;

1 “(2) a designation of an individual or entity re-
2 sponsible for assigning financial responsibility
3 among appropriate agencies;

4 “(3) information demonstrating eligibility of the
5 State under section 634, including a description of
6 services to be provided to infants and toddlers with
7 disabilities and their families through the system;

8 “(4) if the State provides services to at-risk in-
9 fants and toddlers through the statewide system, a
10 description of such services;

11 “(5) a description of the State policies and pro-
12 cedures requiring the referral of a child under the
13 age 3 who is involved in a substantiated case of child
14 abuse or neglect consistent with section 635(a)(5) or
15 who is born and identified with fetal alcohol effects,
16 fetal alcohol syndrome, neonatal intoxication, or neo-
17 natal physical or neurological harm resulting from
18 prenatal drug exposure;

19 “(6) a description of the uses for which funds
20 will be expended in accordance with this part;

21 “(7) a description of the procedure used to en-
22 sure that resources are made available under this
23 part for all geographic areas within the State;

24 “(8) a description of State policies and proce-
25 dures that ensure that, prior to the adoption by the

1 State of any other policy or procedure necessary to
2 meet the requirements of this part, there are public
3 hearings, adequate notice of the hearings, and an
4 opportunity for comment available to the general
5 public, including individuals with disabilities and
6 parents of infants and toddlers with disabilities;

7 “(9) a description of the policies and procedures
8 to be used—

9 “(A) to ensure a smooth transition for tod-
10 dlers receiving early intervention services under
11 this part to preschool or other appropriate serv-
12 ices, including a description of how—

13 “(i) the families of such toddlers will
14 be included in the transition plans required
15 by subparagraph (C); and

16 “(ii) the lead agency designated or es-
17 tablished under section 635(a)(10) will—

18 “(I) notify the local educational
19 agency for the area in which such a
20 child resides that the child will shortly
21 reach the age of eligibility for pre-
22 school services under part B, as deter-
23 mined in accordance with State law;

24 “(II) in the case of a child who
25 may be eligible for such preschool

1 services, with the approval of the fam-
2 ily of the child, convene a conference
3 among the lead agency, the family,
4 and the local educational agency at
5 least 90 days (and at the discretion of
6 all such parties, up to 6 months) be-
7 fore the child is eligible for the pre-
8 school services, to discuss any such
9 services that the child may receive;
10 and

11 “(III) in the case of a child who
12 may not be eligible for such preschool
13 services, with the approval of the fam-
14 ily, make reasonable efforts to con-
15 vene a conference among the lead
16 agency, the family, and providers of
17 other appropriate services for children
18 who are not eligible for preschool serv-
19 ices under part B, to discuss the ap-
20 propriate services that the child may
21 receive;

22 “(B) to review the child’s program options
23 for the period from the child’s third birthday
24 through the remainder of the school year; and

25 “(C) to establish a transition plan;

1 “(10) a description of State efforts to promote
2 collaboration between Early Head Start programs,
3 child care, and services under part C of this Act;
4 and

5 “(11) such other information and assurances as
6 the Secretary may reasonably require.

7 “(b) ASSURANCES.—The application described in
8 subsection (a)—

9 “(1) shall provide satisfactory assurance that
10 Federal funds made available under section 643 to
11 the State will be expended in accordance with this
12 part;

13 “(2) shall contain an assurance that the State
14 will comply with the requirements of section 640;

15 “(3) shall provide satisfactory assurance that
16 the control of funds provided under section 643, and
17 title to property derived from those funds, will be in
18 a public agency for the uses and purposes provided
19 in this part and that a public agency will administer
20 such funds and property;

21 “(4) shall provide for—

22 “(A) making such reports in such form
23 and containing such information as the Sec-
24 retary may require to carry out the Secretary’s
25 functions under this part; and

1 “(B) keeping such records and affording
2 such access to them as the Secretary may find
3 necessary to ensure the correctness and
4 verification of those reports and proper dis-
5 bursement of Federal funds under this part;

6 “(5) provide satisfactory assurance that Federal
7 funds made available under section 643 to the
8 State—

9 “(A) will not be commingled with State
10 funds; and

11 “(B) will be used so as to supplement the
12 level of State and local funds expended for in-
13 fants and toddlers with disabilities and their
14 families and in no case to supplant those State
15 and local funds;

16 “(6) shall provide satisfactory assurance that
17 such fiscal control and fund accounting procedures
18 will be adopted as may be necessary to ensure prop-
19 er disbursement of, and accounting for, Federal
20 funds paid under section 643 to the State;

21 “(7) shall provide satisfactory assurance that
22 policies and procedures have been adopted to ensure
23 meaningful involvement of underserved groups, in-
24 cluding minority, low-income, and rural families, in

1 the planning and implementation of all the require-
2 ments of this part; and

3 “(8) shall contain such other information and
4 assurances as the Secretary may reasonably require
5 by regulation.

6 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
7 TION.—The Secretary may not disapprove such an appli-
8 cation unless the Secretary determines, after notice and
9 opportunity for a hearing, that the application fails to
10 comply with the requirements of this section.

11 “(d) SUBSEQUENT STATE APPLICATION.—If a State
12 has on file with the Secretary a policy, procedure, or as-
13 surance that demonstrates that the State meets a require-
14 ment of this section, including any policy or procedure
15 filed under this part (as in effect before the date of the
16 enactment of the Improving Education Results for Chil-
17 dren With Disabilities Act of 2003), the Secretary shall
18 consider the State to have met the requirement for pur-
19 poses of receiving a grant under this part.

20 “(e) MODIFICATION OF APPLICATION.—An applica-
21 tion submitted by a State in accordance with this section
22 shall remain in effect until the State submits to the Sec-
23 retary such modifications as the State determines nec-
24 essary. This section shall apply to a modification of an

1 application to the same extent and in the same manner
2 as this section applies to the original application.

3 “(f) MODIFICATIONS REQUIRED BY THE SEC-
4 RETARY.—The Secretary may require a State to modify
5 its application under this section, but only to the extent
6 necessary to ensure the State’s compliance with this part,
7 if—

8 “(1) an amendment is made to this Act, or a
9 Federal regulation issued under this Act;

10 “(2) a new interpretation of this Act is made by
11 a Federal court or the State’s highest court; or

12 “(3) an official finding of noncompliance with
13 Federal law or regulations is made with respect to
14 the State.

15 **“SEC. 638. USES OF FUNDS.**

16 “In addition to using funds provided under section
17 633 to maintain and implement the statewide system re-
18 quired by such section, a State may use such funds—

19 “(1) for direct early intervention services for in-
20 fants and toddlers with disabilities, and their fami-
21 lies, under this part that are not otherwise funded
22 through other public or private sources;

23 “(2) to expand and improve on services for in-
24 fants and toddlers and their families under this part
25 that are otherwise available;

1 “(3) to provide a free appropriate public edu-
2 cation, in accordance with part B, to children with
3 disabilities from their third birthday to the begin-
4 ning of the following school year; and

5 “(4) in any State that does not provide services
6 for at-risk infants and toddlers under section
7 637(a)(4), to strengthen the statewide system by ini-
8 tiating, expanding, or improving collaborative efforts
9 related to at-risk infants and toddlers, including es-
10 tablishing linkages with appropriate public or private
11 community-based organizations, services, and per-
12 sonnel for the purposes of—

13 “(A) identifying and evaluating at-risk in-
14 fants and toddlers;

15 “(B) making referrals of the infants and
16 toddlers identified and evaluated under sub-
17 paragraph (A); and

18 “(C) conducting periodic followup on each
19 such referral to determine if the status of the
20 infant or toddler involved has changed with re-
21 spect to the eligibility of the infant or toddler
22 for services under this part.”.

1 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**
2 **WITH DISABILITIES EDUCATION ACT.**

3 Sections 641 through 645 of the Individuals with
4 Disabilities Education Act (20 U.S.C. 1441–1445) are
5 amended to read as follows:

6 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

7 “(a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—A State that desires to re-
9 ceive financial assistance under this part shall estab-
10 lish a State interagency coordinating council.

11 “(2) APPOINTMENT.—The council shall be ap-
12 pointed by the Governor. In making appointments to
13 the council, the Governor shall ensure that the mem-
14 bership of the council reasonably represents the pop-
15 ulation of the State.

16 “(3) CHAIRPERSON.—The Governor shall des-
17 ignate a member of the council to serve as the chair-
18 person of the council, or shall require the council to
19 so designate such a member. Any member of the
20 council who is a representative of the lead agency
21 designated under section 635(a)(10) may not serve
22 as the chairperson of the council.

23 “(b) COMPOSITION.—

24 “(1) IN GENERAL.—The council shall be com-
25 posed as follows:

1 “(A) PARENTS.—At least 20 percent of
2 the members shall be parents of infants or tod-
3 dlers with disabilities or children with disabil-
4 ities aged 12 or younger, with knowledge of, or
5 experience with, programs for infants and tod-
6 dlers with disabilities. At least one such mem-
7 ber shall be a parent of an infant or toddler
8 with a disability or a child with a disability
9 aged 6 or younger.

10 “(B) SERVICE PROVIDERS.—At least 20
11 percent of the members shall be public or pri-
12 vate providers of early intervention services.

13 “(C) STATE LEGISLATURE.—At least one
14 member shall be from the State legislature.

15 “(D) PERSONNEL PREPARATION.—At least
16 one member shall be involved in personnel prep-
17 aration.

18 “(E) AGENCY FOR EARLY INTERVENTION
19 SERVICES.—At least one member shall be from
20 each of the State agencies involved in the provi-
21 sion of, or payment for, early intervention serv-
22 ices to infants and toddlers with disabilities and
23 their families and shall have sufficient authority
24 to engage in policy planning and implementa-
25 tion on behalf of such agencies.

1 “(F) AGENCY FOR PRESCHOOL SERV-
2 ICES.—At least one member shall be from the
3 State educational agency responsible for pre-
4 school services to children with disabilities and
5 shall have sufficient authority to engage in pol-
6 icy planning and implementation on behalf of
7 such agency.

8 “(G) AGENCY FOR HEALTH INSURANCE.—
9 At least one member shall be from the agency
10 responsible for the State governance of health
11 insurance.

12 “(H) HEAD START AGENCY.—At least one
13 representative from a Head Start agency or
14 program in the State.

15 “(I) CHILD CARE AGENCY.—At least one
16 representative from a State agency responsible
17 for child care.

18 “(J) MENTAL HEALTH AGENCY.—At least
19 one representative from the State agency re-
20 sponsible for children’s mental health.

21 “(K) CHILD WELFARE AGENCY.—At least
22 one representative from the State agency re-
23 sponsible for child protective services.

24 “(L) OFFICE OF THE COORDINATOR FOR
25 THE EDUCATION OF HOMELESS CHILDREN AND

1 YOUTH.—At least one representative designated
2 by the Office of the Coordinator.

3 “(2) OTHER MEMBERS.—The council may in-
4 clude other members selected by the Governor, in-
5 cluding a representative from the Bureau of Indian
6 Affairs, or where there is no BIA-operated or BIA-
7 funded school, from the Indian Health Service or the
8 tribe or tribal council.

9 “(c) MEETINGS.—The council shall meet at least
10 quarterly and in such places as it deems necessary. The
11 meetings shall be publicly announced, and, to the extent
12 appropriate, open and accessible to the general public.

13 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
14 proval of the Governor, the council may prepare and ap-
15 prove a budget using funds under this part to conduct
16 hearings and forums, to reimburse members of the council
17 for reasonable and necessary expenses for attending coun-
18 cil meetings and performing council duties (including child
19 care for parent representatives), to pay compensation to
20 a member of the council if the member is not employed
21 or must forfeit wages from other employment when per-
22 forming official council business, to hire staff, and to ob-
23 tain the services of such professional, technical, and cler-
24 ical personnel as may be necessary to carry out its func-
25 tions under this part.

1 “(e) FUNCTIONS OF COUNCIL.—

2 “(1) DUTIES.—The council shall—

3 “(A) advise and assist the lead agency des-
4 ignated or established under section 635(a)(10)
5 in the performance of the responsibilities set
6 forth in such section, particularly the identifica-
7 tion of the sources of fiscal and other support
8 for services for early intervention programs, as-
9 signment of financial responsibility to the ap-
10 propriate agency, and the promotion of the
11 interagency agreements;

12 “(B) advise and assist the lead agency in
13 the preparation of applications and amend-
14 ments thereto;

15 “(C) advise and assist the State edu-
16 cational agency regarding the transition of tod-
17 dlers with disabilities to preschool and other ap-
18 propriate services; and

19 “(D) prepare and submit an annual report
20 to the Governor and to the Secretary on the
21 status of early intervention programs for in-
22 fants and toddlers with disabilities and their
23 families operated within the State.

24 “(2) AUTHORIZED ACTIVITY.—The council may
25 advise and assist the lead agency and the State edu-

1 cational agency regarding the provision of appro-
2 priate services for children from birth through age
3 5. The council may advise appropriate agencies in
4 the State with respect to the integration of services
5 for infants and toddlers with disabilities and at-risk
6 infants and toddlers and their families, regardless of
7 whether at-risk infants and toddlers are eligible for
8 early intervention services in the State.

9 “(f) CONFLICT OF INTEREST.—No member of the
10 council shall cast a vote on any matter that would provide
11 direct financial benefit to that member or otherwise give
12 the appearance of a conflict of interest under State law.

13 **“SEC. 642. FEDERAL ADMINISTRATION.**

14 “Sections 616, 617, and 618 shall, to the extent not
15 inconsistent with this part, apply to the program author-
16 ized by this part, except that—

17 “(1) any reference in such sections to a State
18 educational agency shall be considered to be a ref-
19 erence to a State’s lead agency established or des-
20 igned under section 635(a)(10);

21 “(2) any reference in such sections to a local
22 educational agency, educational service agency, or a
23 State agency shall be considered to be a reference to
24 an early intervention service provider under this
25 part; and

1 “(3) any reference to the education of children
2 with disabilities or the education of all children with
3 disabilities shall be considered to be a reference to
4 the provision of appropriate early intervention serv-
5 ices to infants and toddlers with disabilities.

6 **“SEC. 643. ALLOCATION OF FUNDS.**

7 “(a) RESERVATION OF FUNDS FOR OUTLYING
8 AREAS.—

9 “(1) IN GENERAL.—From the sums appro-
10 priated to carry out this part for any fiscal year, the
11 Secretary may reserve up to one percent for pay-
12 ments to Guam, American Samoa, the Virgin Is-
13 lands, and the Commonwealth of the Northern Mar-
14 iana Islands in accordance with their respective
15 needs.

16 “(2) CONSOLIDATION OF FUNDS.—The provi-
17 sions of Public Law 95–134, permitting the consoli-
18 dation of grants to the outlying areas, shall not
19 apply to funds those areas receive under this part.

20 “(b) PAYMENTS TO INDIANS.—

21 “(1) IN GENERAL.—The Secretary shall, sub-
22 ject to this subsection, make payments to the Sec-
23 retary of the Interior to be distributed to tribes,
24 tribal organizations (as defined under section 4 of
25 the Indian Self-Determination and Education Assist-

1 ance Act), or consortia of the above entities for the
2 coordination of assistance in the provision of early
3 intervention services by the States to infants and
4 toddlers with disabilities and their families on res-
5 ervations served by elementary and secondary
6 schools for Indian children operated or funded by
7 the Department of the Interior. The amount of such
8 payment for any fiscal year shall be 1.25 percent of
9 the aggregate of the amount available to all States
10 under this part for such fiscal year.

11 “(2) ALLOCATION.—For each fiscal year, the
12 Secretary of the Interior shall distribute the entire
13 payment received under paragraph (1) by providing
14 to each tribe, tribal organization, or consortium an
15 amount based on the number of infants and toddlers
16 residing on the reservation, as determined annually,
17 divided by the total number of such children served
18 by all tribes, tribal organizations, or consortia.

19 “(3) INFORMATION.—To receive a payment
20 under this subsection, the tribe, tribal organization,
21 or consortium shall submit such information to the
22 Secretary of the Interior as is needed to determine
23 the amounts to be distributed under paragraph (2).

24 “(4) USE OF FUNDS.—The funds received by a
25 tribe, tribal organization, or consortium shall be

1 used to assist States in child find, screening, and
2 other procedures for the early identification of In-
3 dian children under 3 years of age and for parent
4 training. Such funds may also be used to provide
5 early intervention services in accordance with this
6 part. Such activities may be carried out directly or
7 through contracts or cooperative agreements with
8 the BIA, local educational agencies, and other public
9 or private nonprofit organizations. The tribe, tribal
10 organization, or consortium is encouraged to involve
11 Indian parents in the development and implementa-
12 tion of these activities. The above entities shall, as
13 appropriate, make referrals to local, State, or Fed-
14 eral entities for the provision of services or further
15 diagnosis.

16 “(5) REPORTS.—To be eligible to receive a
17 grant under paragraph (2), a tribe, tribal organiza-
18 tion, or consortium shall make an annual report to
19 the Secretary of the Interior of activities undertaken
20 under this subsection, including the number of con-
21 tracts and cooperative agreements entered into, the
22 number of children contacted and receiving services
23 for each year, and the estimated number of children
24 needing services during the year following the year
25 in which the report is made. The Secretary of the

1 Interior shall include a summary of this information
2 on an annual basis to the Secretary of Education
3 along with such other information as required under
4 section 611(h)(3)(E). The Secretary of Education
5 may require any additional information from the
6 Secretary of the Interior.

7 “(6) PROHIBITED USES OF FUNDS.—None of
8 the funds under this subsection may be used by the
9 Secretary of the Interior for administrative pur-
10 poses, including child count, and the provision of
11 technical assistance.

12 “(c) STATE ALLOTMENTS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3) from the funds remaining for
15 each fiscal year after the reservation and payments
16 under subsections (a) and (b), the Secretary shall
17 first allot to each State an amount that bears the
18 same ratio to the amount of such remainder as the
19 number of infants and toddlers in the State bears to
20 the number of infants and toddlers in all States.

21 “(2) MINIMUM ALLOTMENTS.—Except as pro-
22 vided in paragraph (3) no State shall receive an
23 amount under this section for any fiscal year that is
24 less than the greater of—

1 “(A) one-half of one percent of the remain-
2 ing amount described in paragraph (1); or

3 “(B) \$500,000.

4 “(3) RATABLE REDUCTION.—

5 “(A) IN GENERAL.—If the sums made
6 available under this part for any fiscal year are
7 insufficient to pay the full amounts that all
8 States are eligible to receive under this sub-
9 section for such year, the Secretary shall rat-
10 ably reduce the allotments to such States for
11 such year.

12 “(B) ADDITIONAL FUNDS.—If additional
13 funds become available for making payments
14 under this subsection for a fiscal year, allot-
15 ments that were reduced under subparagraph
16 (A) shall be increased on the same basis they
17 were reduced.

18 “(4) DEFINITIONS.—For the purpose of this
19 subsection—

20 “(A) the terms ‘infants’ and ‘toddlers’
21 mean children under 3 years of age; and

22 “(B) the term ‘State’ means each of the 50
23 States, the District of Columbia, and the Com-
24 monwealth of Puerto Rico.

1 “(d) REALLOTMENT OF FUNDS.—If a State elects
2 not to receive its allotment under subsection (c), the Sec-
3 retary shall reallocate, among the remaining States, amounts
4 from such State in accordance with such subsection.

5 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

6 “For the purpose of carrying out this part, there are
7 authorized to be appropriated \$447,000,000 for fiscal year
8 2004 and such sums as may be necessary for each of the
9 fiscal years 2005 through 2009.”.

10 **TITLE IV—NATIONAL ACTIVITIES**
11 **TO IMPROVE EDUCATION OF**
12 **CHILDREN WITH DISABIL-**
13 **ITIES**

14 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
15 **OF CHILDREN WITH DISABILITIES.**

16 Part D of the Individuals with Disabilities Education
17 Act (20 U.S.C. 1451 et seq.) is amended to read as fol-
18 lows:

19 **“PART D—NATIONAL ACTIVITIES TO IMPROVE**
20 **EDUCATION OF CHILDREN WITH DISABILITIES**

21 **“SEC. 651. FINDINGS.**

22 “The Congress finds the following:

23 “(1) The Federal Government has an ongoing
24 obligation to support activities that contribute to
25 positive results for children with disabilities, ena-

1 bling them to lead productive and independent adult
2 lives.

3 “(2) Systemic change benefiting all students,
4 including children with disabilities, requires the in-
5 volvement of States, local educational agencies, par-
6 ents, individuals with disabilities and their families,
7 teachers and other service providers, and other inter-
8 ested individuals and organizations, to develop and
9 implement comprehensive strategies that improve
10 educational results for children with disabilities.

11 “(3) State educational agencies, in partnership
12 with local educational agencies, parents of children
13 with disabilities, and other individuals and organiza-
14 tions, are in the best position to improve education
15 for children with disabilities and to address their
16 special needs.

17 “(4) An effective educational system serving
18 students with disabilities should—

19 “(A) maintain high academic standards
20 and clear achievement goals for children, con-
21 sistent with the standards and expectations for
22 all students in the educational system, and pro-
23 vide for appropriate and effective strategies and
24 methods to ensure that all children with disabil-

1 ities have the opportunity to achieve those
2 standards and goals;

3 “(B) clearly define, in objective, measur-
4 able terms, the school and post-school results
5 that children with disabilities are expected to
6 achieve; and

7 “(C) promote transition services, as de-
8 scribed in section 602(31), and coordinate State
9 and local education, social, health, mental
10 health, and other services, to address the full
11 range of student needs, particularly the needs
12 of children with disabilities who need significant
13 levels of support to participate and learn in
14 school and the community.

15 “(5) The availability of an adequate number of
16 qualified personnel is critical in order to serve effec-
17 tively children with disabilities, fill leadership posi-
18 tions in administrative and direct-service capacities,
19 provide teacher training, and conduct high-quality
20 research to improve special education.

21 “(6) High-quality, comprehensive professional
22 development programs are essential to ensure that
23 the persons responsible for the education or transi-
24 tion of children with disabilities possess the skills

1 and knowledge necessary to address the educational
2 and related needs of those children.

3 “(7) Models of professional development should
4 be scientifically based and reflect successful prac-
5 tices, including strategies for recruiting, preparing,
6 and retaining personnel.

7 “(8) Continued support is essential for the de-
8 velopment and maintenance of a coordinated and
9 high-quality program of research to inform success-
10 ful teaching practices and model curricula for edu-
11 cating children with disabilities.

12 “(9) A comprehensive research agenda should
13 be established and pursued to promote the highest
14 quality and rigor in research on special education
15 and related services, and to address the full range
16 of issues facing children with disabilities, parents of
17 children with disabilities, school personnel, and oth-
18 ers.

19 “(10) Technical assistance, support, and dis-
20 semination activities are necessary to ensure that
21 parts B and C are fully implemented and achieve
22 quality early intervention, educational, and transi-
23 tional results for children with disabilities and their
24 families.

1 “(11) Parents, teachers, administrators, and re-
2 lated services personnel need technical assistance
3 and information in a timely, coordinated, and acces-
4 sible manner in order to improve early intervention,
5 educational, and transitional services and results at
6 the State and local levels for children with disabil-
7 ities and their families.

8 “(12) Parent training and information activities
9 assist parents of a child with a disability in dealing
10 with the multiple pressures of parenting such a child
11 and are of particular importance in—

12 “(A) creating and preserving constructive
13 relationships between parents of children with
14 disabilities and schools by facilitating open com-
15 munication between such parents and schools,
16 encouraging dispute resolution at the earliest
17 point in time possible, and discouraging the es-
18 calation of an adversarial process between such
19 parents and schools;

20 “(B) ensuring the involvement of such par-
21 ents in planning and decision-making with re-
22 spect to early intervention, educational, and
23 transitional services;

1 “(C) achieving high-quality early interven-
2 tion, educational, and transitional results for
3 children with disabilities;

4 “(D) providing such parents information
5 on their rights, protections, and responsibilities
6 under this Act to ensure improved early inter-
7 vention, educational, and transitional results for
8 children with disabilities;

9 “(E) assisting such parents in the develop-
10 ment of skills to participate effectively in the
11 education and development of their children and
12 in the transitions described in section 602(31);

13 “(F) supporting the roles of such parents
14 as participants within partnerships seeking to
15 improve early intervention, educational, and
16 transitional services and results for children
17 with disabilities and their families; and

18 “(G) supporting those parents who may
19 have limited access to services and supports due
20 to economic, cultural, or linguistic barriers.

21 “(13) Support is needed to improve techno-
22 logical resources and integrate technology into the
23 lives of children with disabilities, parents of children
24 with disabilities, school personnel, and others

1 through curricula, services, and assistive tech-
2 nologies.

3 **“Subpart 1—State Professional Development Grants**

4 **“SEC. 652. PURPOSE.**

5 “The purpose of this subpart is to assist State edu-
6 cational agencies in reforming and improving their sys-
7 tems for professional development in early intervention,
8 educational, and related and transition services in order
9 to improve results for children with disabilities.

10 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

11 “(a) ELIGIBLE APPLICANTS.—A State educational
12 agency may apply for a grant under this subpart for a
13 period of not less than 1 year and not more than 5 years.

14 “(b) PARTNERS.—

15 “(1) REQUIRED PARTNERS.—In order to be
16 considered for a grant under this subpart, a State
17 educational agency shall enter into a partnership
18 agreement with local educational agencies, at least
19 one institution of higher education in the State, and
20 other State agencies involved in, or concerned with,
21 the education of children with disabilities.

22 “(2) OPTIONAL PARTNERS.—In addition, a
23 State educational agency may enter into a partner-
24 ship agreement with any of the following:

25 “(A) The Governor.

1 “(B) Parents of children with disabilities
2 ages birth through 26.

3 “(C) Parents of nondisabled children ages
4 birth through 26.

5 “(D) Individuals with disabilities.

6 “(E) Organizations representing individ-
7 uals with disabilities and their parents, such as
8 parent training and information centers.

9 “(F) Community-based and other non-
10 profit organizations involved in the education
11 and employment of individuals with disabilities.

12 “(G) The lead State agency for part C.

13 “(H) General and special education teach-
14 ers, related services personnel, and early inter-
15 vention personnel.

16 “(I) The State advisory panel established
17 under part C.

18 “(J) The State interagency coordinating
19 council established under part C.

20 “(K) Institutions of higher education with-
21 in the State.

22 “(L) Individuals knowledgeable about voca-
23 tional education.

24 “(M) The State agency for higher edu-
25 cation.

1 “(N) The State vocational rehabilitation
2 agency.

3 “(O) Public agencies with jurisdiction in
4 the areas of health, mental health, social serv-
5 ices, and juvenile justice.

6 “(P) Other providers of professional devel-
7 opment that work with students with disabil-
8 ities.

9 “(Q) Other individuals.

10 **“SEC. 654. APPLICATIONS.**

11 “(a) IN GENERAL.—

12 “(1) SUBMISSION.—A State educational agency
13 that desires to receive a grant under this subpart
14 shall submit to the Secretary an application at such
15 time, in such manner, and including such informa-
16 tion as the Secretary may require.

17 “(2) STATE PLAN.—The application shall in-
18 clude a plan that addresses the State and local
19 needs for the professional development of adminis-
20 trators, principals, teachers, related services per-
21 sonnel, and individuals who provide direct supple-
22 mentary aids and services to children with disabil-
23 ities, and that—

24 “(A) is integrated, to the maximum extent
25 possible, with State plans under the Elementary

1 and Secondary Education Act of 1965, the Re-
2 habilitation Act of 1973, and the Higher Edu-
3 cation Act of 1965, as appropriate; and

4 “(B) is designed to enable the State to
5 meet the requirements of section 612(a)(15) of
6 this Act.

7 “(b) ELEMENTS OF STATE PLAN.—Each State plan
8 shall—

9 “(1) describe a partnership agreement that—

10 “(A) specifies—

11 “(i) the nature and extent of the part-
12 nership among the State educational agen-
13 cy, local educational agencies, and other
14 State agencies involved in, or concerned
15 with, the education of children with disabil-
16 ities, and the respective roles of each mem-
17 ber of the partnership; and

18 “(ii) how such agencies will work in
19 partnership with other persons and organi-
20 zations involved in, and concerned with,
21 the education of children with disabilities,
22 including the respective roles of each of
23 these persons and organizations; and

24 “(B) is in effect for the period of the
25 grant;

1 “(2) describe how grant funds, including part B
2 funds retained for use at the State level under sec-
3 tions 611(e) and 619(d), and other Federal funds
4 will be used to support activities conducted under
5 this subpart;

6 “(3) describe the strategies the State will use to
7 implement the plan to improve results for children
8 with disabilities, including—

9 “(A) how the State will align its profes-
10 sional development plan with the plans sub-
11 mitted by the State under sections 1111 and
12 2112 of the Elementary and Secondary Edu-
13 cation Act of 1965;

14 “(B) how the State will provide technical
15 assistance to local educational agencies and
16 schools to improve the quality of professional
17 development available to meet the needs of per-
18 sonnel that serve children with disabilities; and

19 “(C) how the State will assess, on a reg-
20 ular basis, the extent to which the strategies
21 implemented under this subpart have been ef-
22 fective in meeting the achievement goals and in-
23 dicators in section 612(a)(16);

1 “(4) describe, as appropriate, how the strate-
2 gies described in paragraph (3) will be coordinated
3 with public and private sector resources; and

4 “(5) include an assurance that the State will
5 use funds received under this subpart to carry out
6 each of the activities specified in the plan.

7 “(c) COMPETITIVE AWARDS.—

8 “(1) IN GENERAL.—The Secretary shall make
9 grants under this subpart on a competitive basis.

10 “(2) PRIORITY.—The Secretary may give pri-
11 ority to applications—

12 “(A) on the basis of need; and

13 “(B) that provide for the establishment of
14 professional development programs regarding
15 methods of early and appropriate identification
16 of children with disabilities.

17 “(d) PEER REVIEW.—

18 “(1) IN GENERAL.—The Secretary shall evalu-
19 ate applications under this subpart using a panel of
20 experts who are qualified by virtue of their training,
21 expertise, or experience.

22 “(2) COMPOSITION OF PANEL.—A majority of a
23 panel described in paragraph (1) shall be composed
24 of individuals who are not employees of the Federal
25 Government.

1 “(3) PAYMENT OF FEES AND EXPENSES OF
2 CERTAIN MEMBERS.—The Secretary may use avail-
3 able funds appropriated to carry out this subpart to
4 pay the expenses and fees of panel members who are
5 not employees of the Federal Government.

6 “(e) REPORTING PROCEDURES.—Each State edu-
7 cational agency that receives a grant under this subpart
8 shall submit annual performance reports to the Secretary.
9 The reports shall—

10 “(1) describe the progress of the State in imple-
11 menting its plan;

12 “(2) analyze the effectiveness of the State’s ac-
13 tivities under this subpart and of the State’s strate-
14 gies for meeting its goals under section 612(a)(16);
15 and

16 “(3) identify any changes in such strategies
17 needed to improve its performance.

18 **“SEC. 655. USE OF FUNDS.**

19 “(a) IN GENERAL.—

20 “(1) ACTIVITIES.—A State educational agency
21 that receives a grant under this subpart shall use
22 the grant funds, subject to subsection (b), for the
23 following:

24 “(A) PROFESSIONAL DEVELOPMENT.—

1 “(i) Carrying out programs that sup-
2 port the professional development of early
3 intervention personnel, related services per-
4 sonnel, and both special education and reg-
5 ular education teachers of children with
6 disabilities, such as programs that—

7 “(I) provide teacher mentoring,
8 team teaching, reduced class sched-
9 ules, and intensive professional devel-
10 opment;

11 “(II) use standards or assess-
12 ments for guiding beginning teachers
13 that are consistent with challenging
14 State student academic achievement
15 standards and with the definition of
16 professional development in section
17 9101 of the Elementary and Sec-
18 ondary Education Act of 1965;

19 “(III) promote collaborative and
20 consultive models of providing special
21 education ad related services; and

22 “(IV) increase understanding as
23 to the most appropriate placements
24 and services for all students to reduce
25 significant racial and ethnic

1 disproportionality in eligibility, place-
2 ment, and disciplinary actions.

3 “(ii) Encouraging and supporting the
4 training of special education and regular
5 education teachers and administrators to
6 effectively integrate technology into cur-
7 ricula and instruction, including training
8 to improve the ability to collect, manage,
9 and analyze data to improve teaching, deci-
10 sionmaking, school improvement efforts,
11 and accountability.

12 “(iii) Providing professional develop-
13 ment activities that improve the knowledge
14 of special education and regular education
15 teachers concerning—

16 “(I) the academic and develop-
17 mental needs of students with disabil-
18 ities; and

19 “(II) effective instructional strat-
20 egies, methods, and skills, use of chal-
21 lenging State academic content stand-
22 ards and student academic achieve-
23 ment standards, and use of State as-
24 sessments, to improve teaching prac-

1 tices and student academic achieve-
2 ment.

3 “(iv) Providing professional develop-
4 ment activities that—

5 “(I) improve the knowledge of
6 special education and regular edu-
7 cation teachers and principals and, in
8 appropriate cases, related services
9 personnel and paraprofessionals, con-
10 cerning effective instructional prac-
11 tices;

12 “(II) provide training in how to
13 teach and address the needs of stu-
14 dents with different learning styles;

15 “(III) involve collaborative
16 groups of teachers and administra-
17 tors;

18 “(IV) provide training in meth-
19 ods of—

20 “(aa) positive behavior inter-
21 ventions and supports to improve
22 student behavior in the class-
23 room;

1 “(bb) scientifically based
2 reading instruction, including
3 early literacy instruction; and

4 “(cc) early and appropriate
5 interventions to identify and help
6 students with disabilities;

7 “(V) provide training to enable
8 special education and regular edu-
9 cation teachers, related services per-
10 sonnel, and principals to involve par-
11 ents in their child’s education, espe-
12 cially parents of low-income and lim-
13 ited English proficient children with
14 disabilities; or

15 “(VI) train administrators and
16 other relevant school personnel in con-
17 ducting facilitated individualized edu-
18 cation program meetings.

19 “(v) Developing and implementing ini-
20 tiatives to promote retention of highly
21 qualified special education teachers, includ-
22 ing programs that provide—

23 “(I) teacher mentoring from ex-
24 emplary special education teachers,
25 principals, or superintendents;

1 “(II) induction and support for
2 special education teachers during their
3 first 3 years of employment as teach-
4 ers; or

5 “(III) incentives, including finan-
6 cial incentives, to retain special edu-
7 cation teachers who have a record of
8 success in helping students with dis-
9 abilities improve their academic
10 achievement.

11 “(vi) Carrying out programs and ac-
12 tivities that are designed to improve the
13 quality of the teacher force that serves
14 children with disabilities, such as—

15 “(I) innovative professional devel-
16 opment programs (which may be pro-
17 vided through partnerships including
18 institutions of higher education), in-
19 cluding programs that train teachers
20 and principals to integrate technology
21 into curricula and instruction to im-
22 prove teaching, learning, and tech-
23 nology literacy, are consistent with the
24 requirements of section 9101 of the
25 Elementary and Secondary Education

1 Act of 1965, and are coordinated with
2 activities carried out under this part;
3 and

4 “(II) development and use of
5 proven, cost-effective strategies for the
6 implementation of professional devel-
7 opment activities, such as through the
8 use of technology and distance learn-
9 ing.

10 “(B) STATE ACTIVITIES.—

11 “(i) Reforming special education and
12 regular education teacher certification (in-
13 cluding recertification) or licensing require-
14 ments to ensure that—

15 “(I) special education and reg-
16 ular education teachers have the
17 training and information necessary,
18 including an understanding of the lat-
19 est scientifically valid education re-
20 search and its applicability, to address
21 the wide variety of needs of children
22 with disabilities across disability cat-
23 egories;

24 “(II) special education and reg-
25 ular education teachers have the nec-

1 essary subject matter knowledge and
2 teaching skills in the academic sub-
3 jects that the teachers teach;

4 “(III) special education and reg-
5 ular education teacher certification
6 (including recertification) or licensing
7 requirements are aligned with chal-
8 lenging State academic content stand-
9 ards; and

10 “(IV) special education and reg-
11 ular education teachers have the sub-
12 ject matter knowledge and teaching
13 skills, including technology literacy,
14 necessary to help students meet chal-
15 lenging State student academic
16 achievement standards.

17 “(ii) Carrying out programs that es-
18 tablish, expand, or improve alternative
19 routes for State certification of special
20 education teachers for individuals who
21 demonstrate the potential to become highly
22 effective special education teachers, such
23 as individuals with a baccalaureate or mas-
24 ter’s degree (including mid-career profes-
25 sionals from other occupations), para-

1 professionals, former military personnel,
2 and recent college or university graduates
3 with records of academic distinction.

4 “(iii) Carrying out teacher advance-
5 ment initiatives for special education
6 teachers that promote professional growth
7 and emphasize multiple career paths (such
8 as paths to becoming a career teacher,
9 mentor teacher, or exemplary teacher) and
10 pay differentiation.

11 “(iv) Developing and implementing
12 mechanisms to assist local educational
13 agencies and schools in effectively recruit-
14 ing and retaining highly qualified special
15 education teachers.

16 “(v) Reforming tenure systems, imple-
17 menting teacher testing for subject matter
18 knowledge, and implementing teacher test-
19 ing for State certification or licensing, con-
20 sistent with title II of the Higher Edu-
21 cation Act of 1965.

22 “(vi) Developing and implementing
23 mechanisms to assist schools in effectively
24 recruiting and retaining highly qualified
25 special education teachers.

1 “(vii) Funding projects to promote
2 reciprocity of teacher certification or li-
3 censing between or among States for spe-
4 cial education teachers, except that no reci-
5 procity agreement developed under this
6 clause or developed using funds provided
7 under this subpart may lead to the weak-
8 ening of any State teaching certification or
9 licensing requirement.

10 “(viii) Developing or assisting local
11 educational agencies to serve children with
12 disabilities through the development and
13 use of proven, innovative strategies to de-
14 liver intensive professional development
15 programs that are both cost-effective and
16 easily accessible, such as strategies that in-
17 volve delivery through the use of tech-
18 nology, peer networks, and distance learn-
19 ing.

20 “(ix) Developing, or assisting local
21 educational agencies in developing, merit-
22 based performance systems, and strategies
23 that provide differential and bonus pay for
24 special education teachers.

1 “(x) Supporting activities that ensure
2 that teachers are able to use challenging
3 State academic content standards and stu-
4 dent academic achievement standards, and
5 State assessments, to improve instructional
6 practices and improve the academic
7 achievement of children with disabilities.

8 “(xi) Coordinating with, and expand-
9 ing, centers established under section
10 2113(c)(18) of the Elementary and Sec-
11 ondary Education Act of 1965 to benefit
12 special education teachers.

13 “(2) CONTRACTS AND SUBGRANTS.—Each such
14 State educational agency—

15 “(A) shall, consistent with its partnership
16 agreement under section 654(b)(1), award con-
17 tracts or subgrants to local educational agen-
18 cies, institutions of higher education, and par-
19 ent training and information centers, as appro-
20 priate, to carry out its State plan under this
21 subpart; and

22 “(B) may award contracts and subgrants
23 to other public and private entities, including
24 the lead agency under part C, to carry out such
25 plan.

1 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
2 MENT.—A State educational agency that receives a grant
3 under this subpart shall use—

4 “(1) not less than 90 percent of the funds it re-
5 ceives under the grant for any fiscal year for activi-
6 ties under subsection (a)(1)(A); and

7 “(2) not more than 10 percent of the funds it
8 receives under the grant for any fiscal year for ac-
9 tivities under subsection (a)(1)(B).

10 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95-
11 134, permitting the consolidation of grants to the outlying
12 areas, shall not apply to funds received under this subpart.

13 **“SEC. 656. STATE GRANT AMOUNTS.**

14 “(a) IN GENERAL.—The Secretary shall make a
15 grant to each State educational agency whose application
16 the Secretary has selected for funding under this subpart
17 in an amount for each fiscal year that is—

18 “(1) not less than \$500,000, nor more than
19 \$2,000,000, in the case of the 50 States, the Dis-
20 trict of Columbia, and the Commonwealth of Puerto
21 Rico; and

22 “(2) not less than \$80,000, in the case of an
23 outlying area.

24 “(b) FACTORS.—The Secretary shall set the amount
25 of each grant under subsection (a) after considering—

1 “(1) the amount of funds available for making
2 the grants;

3 “(2) the relative population of the State or out-
4 lying area; and

5 “(3) the types of activities proposed by the
6 State or outlying area, including—

7 “(A) the alignment of proposed activities
8 with paragraphs (14) and (15) of section
9 612(a);

10 “(B) the alignment of proposed activities
11 with the plans submitted under sections 1111
12 and 2112 of the Elementary and Secondary
13 Education Act of 1965; and

14 “(C) the use, as appropriate, of scientif-
15 ically based research.

16 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated to carry out
18 this subpart \$44,000,000 for fiscal year 2004 and such
19 sums as may be necessary for each of the fiscal years 2005
20 through 2009.

1 **“Subpart 2—Scientifically Based Research; Technical**
2 **Assistance; Model Demonstration Projects; Dis-**
3 **semination of Information; and Personnel Prep-**
4 **aration Programs**

5 **“SEC. 661. PURPOSE.**

6 “The purpose of this subpart is to provide Federal
7 funding for scientifically based research, technical assist-
8 ance, model demonstration projects, information dissemi-
9 nation, and personnel preparation programs to improve
10 early intervention, educational, and transitional results for
11 children with disabilities.

12 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

13 “(a) COMPREHENSIVE PLAN.—

14 “(1) IN GENERAL.—The Secretary shall develop
15 and implement a comprehensive plan for activities
16 carried out under this subpart (other than section
17 663) in order to enhance the provision of edu-
18 cational, related, transitional, and early intervention
19 services to children with disabilities under parts B
20 and C. The plan shall include mechanisms to ad-
21 dress educational, related services, transitional, and
22 early intervention needs identified by State edu-
23 cational agencies in applications submitted under
24 subpart 1.

1 “(2) PUBLIC COMMENT.—The Secretary shall
2 provide a public comment period of at least 30 days
3 on the plan.

4 “(3) DISTRIBUTION OF FUNDS.—In imple-
5 menting the plan, the Secretary shall, to the extent
6 appropriate, ensure that funds are awarded to re-
7 cipients under this subpart to carry out activities
8 that benefit, directly or indirectly, children with dis-
9 abilities of all ages.

10 “(4) REPORTS TO CONGRESS.—The Secretary
11 shall annually report to the Congress on the Sec-
12 retary’s activities under this subsection, including an
13 initial report not later than the date that is 12
14 months after the date of the enactment of Improving
15 Education Results for Children With Disabilities Act
16 of 2003.

17 “(b) ELIGIBLE APPLICANTS.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subpart, the following entities are eligi-
20 ble to apply for a grant, contract, or cooperative
21 agreement under this subpart:

22 “(A) A State educational agency.

23 “(B) A local educational agency.

24 “(C) A public charter school that is a local
25 educational agency under State law.

1 “(D) An institution of higher education.

2 “(E) Any other public agency.

3 “(F) A private nonprofit organization.

4 “(G) An outlying area.

5 “(H) An Indian tribe or a tribal organiza-
6 tion (as defined under section 4 of the Indian
7 Self-Determination and Education Assistance
8 Act (25 U.S.C. 450b)).

9 “(I) A for-profit organization if the Sec-
10 retary finds it appropriate given the specific
11 purpose of the competition.

12 “(2) SPECIAL RULE.—The Secretary may limit
13 the entities eligible for an award of a grant, con-
14 tract, or cooperative agreement to one or more cat-
15 egories of eligible entities described in paragraph
16 (1).

17 “(c) SPECIAL POPULATIONS.—

18 “(1) APPLICATION REQUIREMENT.—In making
19 an award of a grant, contract, or cooperative agree-
20 ment under this subpart, the Secretary shall, as ap-
21 propriate, require an applicant to demonstrate how
22 the applicant will address the needs of children with
23 disabilities from minority backgrounds.

24 “(2) REQUIRED OUTREACH AND TECHNICAL AS-
25 SISTANCE.—Notwithstanding any other provision of

1 this Act, the Secretary shall reserve at least two per-
2 cent of the total amount of funds appropriated to
3 carry out this subpart for either or both of the fol-
4 lowing activities:

5 “(A) Providing outreach and technical as-
6 sistance to historically black colleges and uni-
7 versities, and to institutions of higher education
8 with minority enrollments of at least 25 per-
9 cent, to promote the participation of such col-
10 leges, universities, and institutions in activities
11 under this subpart.

12 “(B) Enabling historically black colleges
13 and universities, and the institutions described
14 in subparagraph (A), to assist other colleges,
15 universities, institutions, and agencies in im-
16 proving educational and transitional results for
17 children with disabilities, if such grant appli-
18 cants meet the criteria established by the Sec-
19 retary under this subpart.

20 “(d) PRIORITIES.—The Secretary, in making an
21 award of a grant, contract, or cooperative agreement
22 under this subpart, may, without regard to the rulemaking
23 procedures under section 553 of title 5, United States
24 Code, limit competitions to, or otherwise give priority to—

25 “(1) projects that address one or more—

- 1 “(A) age ranges;
- 2 “(B) disabilities;
- 3 “(C) school grades;
- 4 “(D) types of educational placements or
- 5 early intervention environments;
- 6 “(E) types of services;
- 7 “(F) content areas, such as reading; or
- 8 “(G) effective strategies for helping chil-
- 9 dren with disabilities learn appropriate behavior
- 10 in the school and other community-based edu-
- 11 cational settings;
- 12 “(2) projects that address the needs of children
- 13 based on the severity or incidence of their disability;
- 14 “(3) projects that address the needs of—
- 15 “(A) low-achieving students;
- 16 “(B) underserved populations;
- 17 “(C) children from low-income families;
- 18 “(D) children with limited English pro-
- 19 ficiency;
- 20 “(E) unserved and underserved areas;
- 21 “(F) rural or urban areas;
- 22 “(G) children whose behavior interferes
- 23 with their learning and socialization;
- 24 “(H) children with intractable reading dif-
- 25 ficulties; and

1 “(I) children in public charter schools;

2 “(4) projects to reduce inappropriate identifica-
3 tion of children as children with disabilities, particu-
4 larly among minority children; and

5 “(5) any activity that is expressly authorized in
6 this subpart or subpart 3.

7 “(e) APPLICANT AND RECIPIENT RESPONSIBIL-
8 ITIES.—

9 “(1) DEVELOPMENT AND ASSESSMENT OF
10 PROJECTS.—The Secretary shall require that an ap-
11 plicant for, and a recipient of, a grant, contract, or
12 cooperative agreement for a project under this sub-
13 part—

14 “(A) involve individuals with disabilities, or
15 parents of individuals with disabilities ages
16 birth through 26, in planning, implementing,
17 and evaluating the project; and

18 “(B) where appropriate, determine whether
19 the project has any potential for replication and
20 adoption by other entities.

21 “(2) ADDITIONAL RESPONSIBILITIES.—The
22 Secretary may require a recipient of a grant, con-
23 tract, or cooperative agreement for a project under
24 this subpart—

25 “(A) to share in the cost of the project;

1 “(B) to prepare the research and evalua-
2 tion findings and products from the project in
3 formats that are useful for specific audiences,
4 including parents, administrators, teachers,
5 early intervention personnel, related services
6 personnel, and individuals with disabilities;

7 “(C) to disseminate such findings and
8 products; and

9 “(D) to collaborate with other such recipi-
10 ents in carrying out subparagraphs (B) and
11 (C).

12 “(f) APPLICATION MANAGEMENT.—

13 “(1) STANDING PANEL.—

14 “(A) IN GENERAL.—The Secretary shall
15 establish and use a standing panel of experts
16 who are qualified, by virtue of their training,
17 expertise, or experience, to evaluate applications
18 under this subpart (other than section 663)
19 that, individually, request more than \$75,000
20 per year in Federal financial assistance.

21 “(B) MEMBERSHIP.—The standing panel
22 shall include, at a minimum—

23 “(i) individuals who are representa-
24 tives of institutions of higher education

1 that plan, develop, and carry out high-
2 quality programs of personnel preparation;

3 “(ii) individuals who design and carry
4 out scientifically-based research targeted to
5 the improvement of special education pro-
6 grams and services;

7 “(iii) individuals who have recognized
8 experience and knowledge necessary to in-
9 tegrate and apply scientifically-based re-
10 search findings to improve educational and
11 transitional results for children with dis-
12 abilities;

13 “(iv) individuals who administer pro-
14 grams at the State or local level in which
15 children with disabilities participate;

16 “(v) individuals who prepare parents
17 of children with disabilities to participate
18 in making decisions about the education of
19 their children;

20 “(vi) individuals who establish policies
21 that affect the delivery of services to chil-
22 dren with disabilities;

23 “(vii) individuals who are parents of
24 children with disabilities ages birth
25 through 26 who are benefiting, or have

1 benefited, from coordinated research, per-
2 sonnel preparation, and technical assist-
3 ance; and

4 “(viii) individuals with disabilities.

5 “(C) TERM.—No individual shall serve on
6 the standing panel for more than 3 consecutive
7 years.

8 “(2) PEER-REVIEW PANELS FOR PARTICULAR
9 COMPETITIONS.—

10 “(A) COMPOSITION.—The Secretary shall
11 ensure that each subpanel selected from the
12 standing panel that reviews applications under
13 this subpart (other than section 663) in-
14 cludes—

15 “(i) individuals with knowledge and
16 expertise on the issues addressed by the
17 activities authorized by the subpart; and

18 “(ii) to the extent practicable, parents
19 of children with disabilities ages birth
20 through 26, individuals with disabilities,
21 and persons from diverse backgrounds.

22 “(B) FEDERAL EMPLOYMENT LIMITA-
23 TION.—A majority of the individuals on each
24 subpanel that reviews an application under this
25 subpart (other than section 663) shall be indi-

1 viduals who are not employees of the Federal
2 Government.

3 “(3) USE OF DISCRETIONARY FUNDS FOR AD-
4 MINISTRATIVE PURPOSES.—

5 “(A) EXPENSES AND FEES OF NON-FED-
6 ERAL PANEL MEMBERS.—The Secretary may
7 use funds available under this subpart to pay
8 the expenses and fees of the panel members
9 who are not officers or employees of the Fed-
10 eral Government.

11 “(B) ADMINISTRATIVE SUPPORT.—The
12 Secretary may use not more than 1 percent of
13 the funds appropriated to carry out this sub-
14 part to pay non-Federal entities for administra-
15 tive support related to management of applica-
16 tions submitted under this subpart.

17 “(g) PROGRAM EVALUATION.—The Secretary may
18 use funds appropriated to carry out this subpart to evalu-
19 ate activities carried out under the subpart.

20 “(h) MINIMUM FUNDING REQUIRED.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 the Secretary shall ensure that, for each fiscal year,
23 at least the following amounts are provided under
24 this subpart to address the following needs:

1 “(A) \$12,832,000 to address the edu-
2 cational, related services, transitional, and early
3 intervention needs of children with deaf-blind-
4 ness.

5 “(B) \$4,000,000 to address the postsec-
6 ondary, vocational, technical, continuing, and
7 adult education needs of individuals with deaf-
8 ness.

9 “(C) \$4,000,000 to address the edu-
10 cational, related services, and transitional needs
11 of children with an emotional disturbance and
12 those who are at risk of developing an emo-
13 tional disturbance.

14 “(2) RATABLE REDUCTION.—If the total
15 amount appropriated to carry out this subpart for
16 any fiscal year is less than \$130,000,000, the
17 amounts listed in paragraph (1) shall be ratably re-
18 duced.

19 “(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-
20 fective for fiscal years for which the Secretary may make
21 grants under section 619(b), no State or local educational
22 agency or educational service agency or other public insti-
23 tution or agency may receive a grant under this subpart
24 which relates exclusively to programs, projects, and activi-
25 ties pertaining to children aged 3 through 5, inclusive, un-

1 less the State is eligible to receive a grant under section
2 619(b).

3 **“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-**
4 **DREN WITH DISABILITIES.**

5 “(a) NATIONAL CENTER FOR SPECIAL EDUCATION
6 RESEARCH.—

7 “(1) ESTABLISHMENT.—

8 “(A) IN GENERAL.—There is established,
9 in the Institute of Education Sciences estab-
10 lished under section 111 of the Education
11 Sciences Reform Act of 2002 (Public Law 107–
12 279; 116 Stat. 1944) (hereinafter in this sec-
13 tion referred to as ‘the Institute’), the National
14 Center for Special Education Research.

15 “(B) COMMISSIONER.—The National Cen-
16 ter for Special Education Research shall be
17 headed by a Commissioner for Special Edu-
18 cation Research (hereinafter in this section re-
19 ferred to as ‘the Commissioner’). The Commis-
20 sioner shall be appointed by the Director of the
21 Institute (hereinafter in this section referred to
22 as ‘the Director’) in accordance with section
23 117 of the Education Sciences Reform Act of
24 2002. The Commissioner shall have substantial
25 knowledge of the Center’s activities, including a

1 high level of expertise in the fields of research
2 and research management.

3 “(2) APPLICABILITY OF EDUCATION SCIENCE
4 REFORM ACT OF 2002.—Parts A and E of the Edu-
5 cation Sciences Reform Act of 2002, as well as the
6 standards for peer review of applications and for the
7 conduct and evaluation of research under sections
8 133(a) and 134 of such Act, shall apply to the Sec-
9 retary, the Director, and the Commissioner in car-
10 rying out this section.

11 “(b) COMPETITIVE GRANTS.—The Director shall
12 make competitive grants to, or enter into contracts or co-
13 operative agreements with, eligible entities to expand the
14 fundamental knowledge and understanding of the edu-
15 cation of infants, toddlers, and children with disabilities
16 in order to improve educational results for such individ-
17 uals, in accordance with the priorities determined under
18 this section.

19 “(c) AUTHORIZED ACTIVITIES.—Activities that may
20 be carried out under this section include research activi-
21 ties—

22 “(1) to improve services provided under this
23 Act in order to improve academic achievement for
24 children with disabilities;

1 “(2) to investigate scientifically based edu-
2 cational practices that support learning and improve
3 academic achievement and progress for all students
4 with disabilities;

5 “(3) to examine the special needs of preschool-
6 aged children and infants and toddlers with disabil-
7 ities, including factors that may result in develop-
8 mental delays;

9 “(4) to investigate scientifically based related
10 services and interventions that promote participation
11 and progress in the general education curriculum;

12 “(5) to improve the alignment, compatibility,
13 and development of valid and reliable assessment
14 methods for assessing adequate yearly progress, as
15 described under section 1111(b)(2)(B) of the Ele-
16 mentary and Secondary Education Act of 1965 (20
17 U.S.C. 6311(b)(2)(B));

18 “(6) to improve the alignment, compatibility,
19 and development of valid and reliable alternate as-
20 sessment methods for assessing adequate yearly
21 progress, as described under such section
22 1111(b)(2)(B);

23 “(7) to examine State content standards and al-
24 ternate assessments for students with a significant
25 cognitive impairment in terms of academic achieve-

1 ment, individualized instructional need, appropriate
2 educational settings, and improved post-school re-
3 sults;

4 “(8) to examine the educational and develop-
5 mental needs of children with high-incidence and
6 low-incidence disabilities;

7 “(9) to examine the extent to which overidenti-
8 fication and underidentification of children with dis-
9 abilities occurs, and the causes thereof;

10 “(10) to improve reading and literacy skills for
11 children with disabilities;

12 “(11) to examine and improve secondary and
13 postsecondary education and transitional needs of
14 children with disabilities;

15 “(12) to examine methods of early intervention
16 for children with disabilities who need significant
17 levels of support;

18 “(13) to examine universal design concepts in
19 the development of assessments, curricula, and in-
20 structional methods as a method to improve edu-
21 cational results for children with disabilities;

22 “(14) to improve the professional preparation
23 for personnel who provide educational and related
24 services to children with disabilities, including chil-

1 dren with low-incidence disabilities, to increase aca-
2 demic achievement of children with disabilities;

3 “(15) to examine the excess costs of educating
4 a child with a disability and expenses associated with
5 high-cost special education and related services; and

6 “(16) to examine the special needs of limited
7 English proficient children with disabilities.

8 “(d) PLAN.—The National Center for Special Edu-
9 cation Research shall propose to the Director a research
10 plan, with the advice of the Assistant Secretary for Special
11 Education and Rehabilitative Services, that—

12 “(1) is consistent with the priorities and mis-
13 sion of the Institute of Educational Sciences and the
14 mission of the Special Education Research Center
15 and includes the activities described in paragraph
16 (3);

17 “(2) shall be carried out pursuant to subsection
18 (c) and, as appropriate, be updated and modified;
19 and

20 “(3) carries out specific, long-term research ac-
21 tivities that are consistent with the priorities and
22 mission of the Institute of Educational Sciences, and
23 are approved by the Director.

24 “(e) IMPLEMENTATION.—The National Center for
25 Special Education Research shall implement the plan pro-

1 posed under subsection (d) to carry out scientifically valid
2 research that—

3 “(1) is consistent with the purposes of this Act;

4 “(2) reflects an appropriate balance across all
5 age ranges of children with disabilities;

6 “(3) provides for research that is objective and
7 that uses measurable indicators to assess its
8 progress and results;

9 “(4) includes both basic research and applied
10 research, which shall include research conducted
11 through field-initiated studies and which may in-
12 clude ongoing research initiatives;

13 “(5) ensures that the research conducted under
14 this section is relevant to special education practice
15 and policy;

16 “(6) synthesize and disseminate, through the
17 National Center for Education Evaluation and Re-
18 gional Assistance as well as activities authorized
19 under this part, the findings and results of edu-
20 cation research conducted or supported by the Na-
21 tional Center for Special Education Research; and

22 “(7) assist the Director in the preparation of a
23 biennial report, as a described in section 119 of the
24 Education Sciences Reform Act of 2003.

1 “(f) APPLICATIONS.—An eligible entity that wishes
2 to receive a grant, or enter into a contract or cooperative
3 agreement, under this section shall submit an application
4 to the Commissioner at such time, in such manner, and
5 containing such information as the Commissioner may
6 reasonably require.

7 **“SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
8 **PROJECTS, DISSEMINATION OF INFORMA-**
9 **TION, AND IMPLEMENTATION OF SCIENTIF-**
10 **ICALLY BASED RESEARCH.**

11 “(a) IN GENERAL.—The Secretary shall make com-
12 petitive grants to, or enter into contracts or cooperative
13 agreements with, eligible entities including regional re-
14 source centers and clearinghouses to provide technical as-
15 sistance, support model demonstration projects, dissemi-
16 nate useful information, and implement activities that are
17 supported by scientifically based research.

18 “(b) REQUIRED ACTIVITIES.—Funds received under
19 this section shall be used to support activities to improve
20 services provided under this Act, including the practices
21 of professionals and others involved in providing such serv-
22 ices to children with disabilities, that promote academic
23 achievement and improve results for children with disabil-
24 ities through—

1 “(1) implementing effective strategies for ad-
2 dressing inappropriate behavior of students with dis-
3 abilities in schools, including strategies to prevent
4 children with emotional and behavioral problems
5 from developing emotional disturbances that require
6 the provision of special education and related serv-
7 ices;

8 “(2) improving the alignment, compatibility,
9 and development of valid and reliable assessments
10 and alternate assessments for assessing adequate
11 yearly progress, as described under section
12 1111(b)(2)(B) of the Elementary and Secondary
13 Education Act of 1965;

14 “(3) providing training for both regular edu-
15 cation teachers and special education teachers to ad-
16 dress the needs of students with different learning
17 styles;

18 “(4) identifying innovative, effective, and effi-
19 cient curricula designs, instructional approaches,
20 and strategies, and identifying positive academic and
21 social learning opportunities, that—

22 “(A) provide effective transitions between
23 educational settings or from school to post
24 school settings; and

1 “(B) improve educational and transitional
2 results at all levels of the educational system in
3 which the activities are carried out and, in par-
4 ticular, that improve the progress of children
5 with disabilities, as measured by assessments
6 within the general education curriculum in-
7 volved; and

8 “(5) demonstrating and applying scientifically
9 based findings to facilitate systemic changes, related
10 to the provision of services to children with disabil-
11 ities, in policy, procedure, practice, and the training
12 and use of personnel.

13 “(c) AUTHORIZED ACTIVITIES.—Activities that may
14 be carried out under this section include activities to im-
15 prove services provided under this Act, including the prac-
16 tices of professionals and others involved in providing such
17 services to children with disabilities, that promote aca-
18 demic achievement and improve results for children with
19 disabilities through—

20 “(1) applying and testing research findings in
21 typical service settings to determine the usefulness,
22 effectiveness, and general applicability of such re-
23 search findings in such areas as improving instruc-
24 tional methods, curricula, and tools, such as text-
25 books and media;

1 “(2) supporting and promoting the coordination
2 of early intervention and educational services for
3 children with disabilities with services provided by
4 health, rehabilitation, and social service agencies;

5 “(3) promoting improved alignment and com-
6 patibility of general and special education reforms
7 concerned with curricular and instructional reform,
8 and evaluation of such reforms;

9 “(4) enabling professionals, parents of children
10 with disabilities, and other persons to learn about,
11 and implement, the findings of scientifically based
12 research, and successful practices developed in model
13 demonstration projects, relating to the provision of
14 services to children with disabilities;

15 “(5) conducting outreach, and disseminating in-
16 formation, relating to successful approaches to over-
17 coming systemic barriers to the effective and effi-
18 cient delivery of early intervention, educational, and
19 transitional services to personnel who provide serv-
20 ices to children with disabilities;

21 “(6) assisting States and local educational
22 agencies with the process of planning systemic
23 changes that will promote improved early interven-
24 tion, educational, and transitional results for chil-
25 dren with disabilities;

1 “(7) promoting change through a multistate or
2 regional framework that benefits States, local edu-
3 cational agencies, and other participants in partner-
4 ships that are in the process of achieving systemic-
5 change outcomes;

6 “(8) focusing on the needs and issues that are
7 specific to a population of children with disabilities,
8 such as the provision of single-State and multi-State
9 technical assistance and in-service training—

10 “(A) to schools and agencies serving deaf-
11 blind children and their families;

12 “(B) to programs and agencies serving
13 other groups of children with low-incidence dis-
14 abilities and their families;

15 “(C) addressing the postsecondary edu-
16 cation needs of individuals who are deaf or
17 hard-of-hearing; and

18 “(D) to schools and personnel providing
19 special education and related services for chil-
20 dren with autism spectrum disorders;

21 “(9) demonstrating models of personnel prepa-
22 ration to ensure appropriate placements and services
23 for all students and reduce disproportionality in eli-
24 gibility, placement, and disciplinary actions for mi-
25 nority and limited English proficient children; and

1 “(10) disseminating information on how to re-
2 duce racial and ethnic disproportionalities identified
3 under section 618.

4 “(d) BALANCE AMONG ACTIVITIES AND AGE
5 RANGES.—In carrying out this section, the Secretary shall
6 ensure that there is an appropriate balance across all age
7 ranges of children with disabilities.

8 “(e) LINKING STATES TO INFORMATION SOURCES.—
9 In carrying out this section, the Secretary shall support
10 projects that link States to technical assistance resources,
11 including special education and general education re-
12 sources, and shall make research and related products
13 available through libraries, electronic networks, parent
14 training projects, and other information sources, including
15 through the activities of the National Center for Evalua-
16 tion and Regional Assistance established under the Edu-
17 cation Sciences Reform Act.

18 “(f) APPLICATIONS.—

19 “(1) IN GENERAL.—An eligible entity that
20 wishes to receive a grant, or enter into a contract or
21 cooperative agreement, under this section shall sub-
22 mit an application to the Secretary at such time, in
23 such manner, and containing such information as
24 the Secretary may require.

1 “(2) STANDARDS.—To the maximum extent
2 feasible, each applicant shall demonstrate that the
3 project described in its application is supported by
4 scientifically valid research that has been carried out
5 in accordance with the standards for the conduct
6 and evaluation of all relevant research and develop-
7 ment established by the National Center for Edu-
8 cation Research.

9 “(3) PRIORITY.—As appropriate, the Secretary
10 shall give priority to applications that propose to
11 serve teachers and school personnel directly in the
12 school environment.

13 **“SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IM-**
14 **PROVE SERVICES AND RESULTS FOR CHIL-**
15 **DREN WITH DISABILITIES.**

16 “(a) IN GENERAL.—The Secretary shall, on a com-
17 petitive basis, make grants to, or enter into contracts or
18 cooperative agreements with, eligible entities—

19 “(1) to help address State-identified needs for
20 qualified personnel in special education, related serv-
21 ices, early intervention, and regular education, to
22 work with children with disabilities;

23 “(2) to ensure that those personnel have the
24 necessary skills and knowledge, derived from prac-
25 tices that have been determined, through scientif-

1 ically valid research, to be successful in serving those
2 children;

3 “(3) to encourage increased focus on academics
4 and core content areas in special education per-
5 sonnel preparation programs;

6 “(4) to ensure that regular education teachers
7 have the necessary skills and knowledge to provide
8 instruction to students with disabilities in the reg-
9 ular education classroom;

10 “(5) to provide high-quality professional devel-
11 opment for principals, superintendents, and other
12 administrators, including training in—

13 “(A) instructional leadership;

14 “(B) behavioral supports in the school and
15 classroom;

16 “(C) paperwork reduction;

17 “(D) promoting improved collaboration be-
18 tween special education and general education
19 teachers;

20 “(E) assessment and accountability;

21 “(F) ensuring effective learning environ-
22 ments; and

23 “(G) fostering positive relationships with
24 parents; and

1 “(6) to ensure that all special education teach-
2 ers teaching in core academic subjects are highly
3 qualified.

4 “(b) PERSONNEL PREPARATION; AUTHORIZED AC-
5 TIVITIES.—

6 “(1) IN GENERAL.—In carrying out this sec-
7 tion, the Secretary shall support activities, including
8 activities for high-incidence and low-incidence dis-
9 abilities, consistent with the objectives described in
10 subsection (a).

11 “(2) AUTHORIZED ACTIVITIES.—Activities that
12 may be carried out under this subsection include the
13 following:

14 “(A) Promoting activities undertaken by
15 institutions of higher education, local edu-
16 cational agencies, and other local entities—

17 “(i) to improve and reform their exist-
18 ing programs, and to support effective ex-
19 isting programs, to prepare teachers and
20 related services personnel—

21 “(I) to meet the diverse needs of
22 children with disabilities for early
23 intervention, educational, and transi-
24 tional services, including to train
25 school safety personnel and first re-

1 sponders who work at qualified edu-
2 cational facilities; and

3 “**(II)** to work collaboratively in
4 regular classroom settings; and

5 “(ii) to incorporate best practices and
6 scientifically based research about pre-
7 paring personnel—

8 “**(I)** so they will have the knowl-
9 edge and skills to improve educational
10 results for children with disabilities;
11 and

12 “**(II)** so they can implement ef-
13 fective teaching strategies and inter-
14 ventions to ensure appropriate identi-
15 fication, and to prevent the
16 misidentification or overidentification,
17 of children as having a disability, es-
18 pecially minority and limited English
19 proficient children.

20 “**(B)** Developing, evaluating, and dissemi-
21 nating innovative models for the recruitment,
22 induction, retention, and assessment of highly
23 qualified teachers to reduce shortages in per-
24 sonnel.

1 “(C) Developing and improving programs
2 for paraprofessionals to assist in the provision
3 of special education, related services, and early
4 intervention services, including interdisciplinary
5 training to enable them to improve early inter-
6 vention, educational, and transitional results for
7 children with disabilities.

8 “(D) Demonstrating models for the prepa-
9 ration of, and interdisciplinary training of, early
10 intervention, special education, and general edu-
11 cation personnel, to enable the personnel to ac-
12 quire the collaboration skills necessary to work
13 within teams to improve results for children
14 with disabilities, particularly within the general
15 education curriculum.

16 “(E) Promoting the transferability, across
17 State and local jurisdictions, of licensure and
18 certification of teachers and administrators
19 working with such children.

20 “(F) Developing and disseminating models
21 that prepare teachers with strategies, including
22 behavioral interventions, for addressing the con-
23 duct of children with disabilities that impedes
24 their learning and that of others in the class-
25 room.

1 “(G) Developing and improving programs
2 to enhance the ability of general education
3 teachers, principals, school administrators, and
4 school board members to improve results for
5 children with disabilities.

6 “(H) Supporting institutions of higher
7 education with minority enrollments of at least
8 25 percent for the purpose of preparing per-
9 sonnel to work with children with disabilities.

10 “(I) Developing and improving programs
11 to train special education teachers with an ex-
12 pertise in autism spectrum disorders, including
13 to train school safety personnel and first re-
14 sponders who work at qualified educational fa-
15 cilities.

16 “(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED
17 ACTIVITIES.—

18 “(1) IN GENERAL.—In carrying out this sec-
19 tion, the Secretary shall support activities, consistent
20 with the objectives described in subsection (a), that
21 benefit children with low-incidence disabilities.

22 “(2) AUTHORIZED ACTIVITIES.—Activities that
23 may be carried out under this subsection include ac-
24 tivities such as the following:

25 “(A) Preparing persons who—

1 “(i) have prior training in educational
2 and other related service fields; and

3 “(ii) are studying to obtain degrees,
4 certificates, or licensure that will enable
5 them to assist children with low-incidence
6 disabilities to achieve the objectives set out
7 in their individualized education programs
8 described in section 614(d), or to assist in-
9 fants and toddlers with low incidence dis-
10 abilities to achieve the outcomes described
11 in their individualized family service plans
12 described in section 636.

13 “(B) Providing personnel from various dis-
14 ciplines with interdisciplinary training that will
15 contribute to improvement in early intervention,
16 educational, and transitional results for children
17 with low-incidence disabilities.

18 “(C) Preparing personnel in the innovative
19 uses and application of technology to enhance
20 learning by children with low-incidence disabil-
21 ities through early intervention, educational,
22 and transitional services.

23 “(D) Preparing personnel who provide
24 services to visually impaired or blind children to

1 teach and use Braille in the provision of serv-
2 ices to such children.

3 “(E) Preparing personnel who provide
4 services to deaf and hard-of-hearing children by
5 providing direct language and communication
6 access to the general education curriculum
7 through spoken or signed languages, or other
8 modes of communication.

9 “(F) Preparing personnel to be qualified
10 educational interpreters, to assist children with
11 low-incidence disabilities, particularly deaf and
12 hard-of-hearing children in school and school-
13 related activities and deaf and hard-of-hearing
14 infants and toddlers and preschool children in
15 early intervention and preschool programs.

16 “(G) Preparing personnel who provide
17 services to children with low-incidence disabili-
18 ties with limited English proficiency.

19 “(3) DEFINITION.—As used in this section, the
20 term ‘low-incidence disability’ means—

21 “(A) a visual or hearing impairment, or si-
22 multaneous visual and hearing impairments;

23 “(B) a significant cognitive impairment; or

24 “(C) any impairment for which a small
25 number of personnel with highly specialized

1 skills and knowledge are needed in order for
2 children with that impairment to receive early
3 intervention services or a free appropriate pub-
4 lic education.

5 “(4) SELECTION OF RECIPIENTS.—In selecting
6 recipients under this subsection, the Secretary may
7 give preference to applications that propose to pre-
8 pare personnel in more than one low-incidence dis-
9 ability, such as deafness and blindness.

10 “(5) PREPARATION IN USE OF BRAILLE.—The
11 Secretary shall ensure that all recipients of assist-
12 ance under this subsection who will use that assist-
13 ance to prepare personnel to provide services to vis-
14 ually impaired or blind children that can appro-
15 priately be provided in Braille will prepare those in-
16 dividuals to provide those services in Braille.

17 “(d) LEADERSHIP PREPARATION; AUTHORIZED AC-
18 TIVITIES.—

19 “(1) IN GENERAL.—In carrying out this sec-
20 tion, the Secretary shall support leadership prepara-
21 tion activities that are consistent with the objectives
22 described in subsection (a).

23 “(2) AUTHORIZED ACTIVITIES.—Activities that
24 may be carried out under this subsection include ac-
25 tivities such as the following:

1 “(A) Preparing personnel at the graduate,
2 doctoral, and postdoctoral levels of training to
3 administer, enhance, or provide services to im-
4 prove results for children with disabilities.

5 “(B) Providing interdisciplinary training
6 for various types of leadership personnel, in-
7 cluding teacher preparation faculty, related
8 services faculty, administrators, researchers, su-
9 pervisors, principals, and other persons whose
10 work affects early intervention, educational, and
11 transitional services for children with disabil-
12 ities, including children with disabilities with
13 limited English proficiency.

14 “(e) APPLICATIONS.—

15 “(1) IN GENERAL.—Any eligible entity that
16 wishes to receive a grant, or enter into a contract or
17 cooperative agreement, under this section shall sub-
18 mit an application to the Secretary at such time, in
19 such manner, and containing such information as
20 the Secretary may require.

21 “(2) IDENTIFIED STATE NEEDS.—

22 “(A) REQUIREMENT TO ADDRESS IDENTI-
23 FIED NEEDS.—Any application under sub-
24 section (b), (c), or (d) shall include information
25 demonstrating to the satisfaction of the Sec-

1 retary that the activities described in the appli-
2 cation will address needs identified by the State
3 or States the applicant proposes to serve.

4 “(B) COOPERATION WITH STATE EDU-
5 CATIONAL AGENCIES.—Any applicant that is
6 not a local educational agency or a State edu-
7 cational agency shall include information dem-
8 onstrating to the satisfaction of the Secretary
9 that the applicant and one or more State edu-
10 cational agencies or local educational agencies
11 will cooperate in carrying out and monitoring
12 the project.

13 “(3) ACCEPTANCE BY STATES OF PERSONNEL
14 PREPARATION REQUIREMENTS.—The Secretary may
15 require applicants to provide assurances from one or
16 more States that such States—

17 “(A) intend to accept successful completion
18 of the proposed personnel preparation program
19 as meeting State personnel standards or other
20 requirements in State law or regulation for
21 serving children with disabilities or serving in-
22 fants and toddlers with disabilities; and

23 “(B) need personnel in the area or areas
24 in which the applicant proposes to provide prep-
25 aration, as identified in the States’ comprehen-

1 sive systems of personnel development under
2 parts B and C.

3 “(f) SELECTION OF RECIPIENTS.—

4 “(1) IMPACT OF PROJECT.—In selecting recipi-
5 ents under this section, the Secretary shall consider
6 the impact of the project proposed in the application
7 in meeting the need for personnel identified by the
8 States.

9 “(2) REQUIREMENT ON APPLICANTS TO MEET
10 STATE AND PROFESSIONAL STANDARDS.—The Sec-
11 retary shall make grants under this section only to
12 eligible applicants that meet State and professionally
13 recognized standards for the preparation of special
14 education and related services personnel, if the pur-
15 pose of the project is to assist personnel in obtaining
16 degrees.

17 “(3) PREFERENCES.—In selecting recipients
18 under this section, the Secretary may—

19 “(A) give preference to institutions of
20 higher education that are educating regular
21 education personnel to meet the needs of chil-
22 dren with disabilities in integrated settings and
23 educating special education personnel to work
24 in collaboration with regular educators in inte-
25 grated settings; and

1 “(B) give preference to institutions of
2 higher education that are successfully recruiting
3 and preparing individuals with disabilities and
4 individuals from groups that are underrep-
5 resented in the profession for which they are
6 preparing individuals.

7 “(g) SERVICE OBLIGATION.—

8 “(1) IN GENERAL.—Each application for funds
9 under subsections (b) and (c) shall include an assur-
10 ance that the applicant will ensure that individuals
11 who receive a scholarship under the proposed project
12 will subsequently provide special education and re-
13 lated services to children with disabilities for a pe-
14 riod of 2 years for every year for which assistance
15 was received or repay all or part of the cost of that
16 assistance, in accordance with regulations issued by
17 the Secretary.

18 “(2) LEADERSHIP PREPARATION.—Each appli-
19 cation for funds under subsection (d) shall include
20 an assurance that the applicant will ensure that in-
21 dividuals who receive a scholarship under the pro-
22 posed project will subsequently perform work related
23 to their preparation for a period of 2 years for every
24 year for which assistance was received or repay all

1 or part of such costs, in accordance with regulations
2 issued by the Secretary.

3 “(h) SCHOLARSHIPS.—The Secretary may include
4 funds for scholarships, with necessary stipends and allow-
5 ances, in awards under subsections (b), (c), and (d).

6 **“SEC. 666. STUDIES AND EVALUATIONS.**

7 “(a) IN GENERAL.—

8 “(1) PROGRESS ASSESSMENT.—The Secretary
9 shall, in accordance with the priorities determined
10 under this section and in section 663, directly or
11 through competitive grants, contracts, or cooperative
12 agreements, assess the progress in the implementa-
13 tion of this Act, including the effectiveness of State
14 and local efforts to provide—

15 “(A) a free appropriate public education to
16 children with disabilities; and

17 “(B) early intervention services to infants
18 and toddlers with disabilities and infants and
19 toddlers who would be at risk of having sub-
20 stantial developmental delays if early interven-
21 tion services were not provided to them.

22 “(2) DELEGATION.—Notwithstanding any other
23 provision of law, the Secretary shall designate the
24 Director of the Institute for Education Sciences to
25 carry out this section.

1 “(3) AUTHORIZED ACTIVITIES.—In carrying
2 out this subsection, the Secretary may support ob-
3 jective studies, evaluations, and assessments, includ-
4 ing studies that—

5 “(A) analyze issues identified in the re-
6 search agenda in section 663(d);

7 “(B) meet the standards in section 663(c);
8 and

9 “(C) undertake one or more of the fol-
10 lowing:

11 “(i) An analysis of the measurable im-
12 pact, outcomes, and results achieved by
13 State educational agencies and local edu-
14 cational agencies through their activities to
15 reform policies, procedures, and practices
16 designed to improve educational and tran-
17 sitional services and results for children
18 with disabilities.

19 “(ii) An analysis of State and local
20 needs for professional development, parent
21 training, and other appropriate activities
22 that can reduce the need for disciplinary
23 actions involving children with disabilities.

24 “(iii) An assessment of educational
25 and transitional services and results for

1 children with disabilities from minority
2 backgrounds or are limited English pro-
3 ficient, including—

4 “(I) data on—

5 “(aa) the number of such
6 children who are referred for spe-
7 cial education evaluation;

8 “(bb) the number of such
9 children who are receiving special
10 education and related services
11 and their educational or other
12 service placement;

13 “(cc) the number of such
14 children who graduated from sec-
15 ondary programs with a regular
16 diploma in the standard number
17 of years; and

18 “(dd) the number of such
19 children who drop out of the edu-
20 cational system without a regular
21 diploma; and

22 “(II) the performance of such
23 children with disabilities on State as-
24 sessments and other performance indi-
25 cators established for all students.

1 “(iv) A measurement of educational
2 and transitional services and results of
3 children with disabilities served under this
4 Act, including longitudinal studies that—

5 “(I) examine educational and
6 transitional services and results for
7 children with disabilities who are 3
8 through 17 years of age and are re-
9 ceiving special education and related
10 services under this Act, using a na-
11 tional, representative sample of dis-
12 tinct age cohorts and disability cat-
13 egories; and

14 “(II) examine educational results,
15 transition services, postsecondary
16 placement, and employment status of
17 individuals with disabilities, 18
18 through 21 years of age, who are re-
19 ceiving or have received special edu-
20 cation and related services under this
21 Act.

22 “(v) An identification and report on
23 the placement of children with disabilities
24 by disability category.

25 “(b) NATIONAL ASSESSMENT.—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a national assessment of activities carried out
3 with Federal funds under this Act in order—

4 “(A) to determine the effectiveness of this
5 Act in achieving its purposes;

6 “(B) to provide timely information to the
7 President, the Congress, the States, local edu-
8 cational agencies, and the public on how to im-
9 plement the Act more effectively; and

10 “(C) to provide the President and the Con-
11 gress with information that will be useful in de-
12 veloping legislation to achieve the purposes of
13 this Act more effectively.

14 “(2) PUBLIC COMMENT.—

15 “(A) PLAN.—Not later than 12 months
16 after the date of enactment of the Improving
17 Education Results for Children With Disabil-
18 ities Act of 2003, the Secretary shall publish in
19 the Federal Register for public comment a com-
20 prehensive plan for developing and conducting
21 the national assessment.

22 “(B) COMMENT PERIOD.—The Secretary
23 shall provide a public comment period of at
24 least 30 days on such plan.

1 “(3) SCOPE OF ASSESSMENT.—The national as-
2 essment shall assess the—

3 “(A) implementation of programs assisted
4 under this Act and the impact of such pro-
5 grams on addressing the developmental needs
6 of, and improving the academic achievement of,
7 children with disabilities to enable them to
8 reach challenging developmental goals and chal-
9 lenging State academic content standards based
10 on State academic assessments;

11 “(B) types of programs and services that
12 have demonstrated the greatest likelihood of
13 helping students reach the challenging State
14 academic content standards and developmental
15 goals;

16 “(C) implementation of the professional
17 development activities assisted under this Act
18 and the impact on instruction, student aca-
19 demic achievement, and teacher qualifications
20 to enhance the ability of special education
21 teachers and regular education teachers to im-
22 prove results for children with disabilities; and

23 “(D) effectiveness of schools, local edu-
24 cational agencies, States, other recipients of as-

1 sistance under this Act, and the Secretary in
2 achieving the purposes of this Act by—

3 “(i) improving the academic achieve-
4 ment of children with disabilities and their
5 performance on regular statewide assess-
6 ments as compared to nondisabled chil-
7 dren, and the performance of children with
8 disabilities on alternate assessments;

9 “(ii) improving the participation of
10 children with disabilities in the general
11 education curriculum;

12 “(iii) improving the transitions of chil-
13 dren with disabilities at natural transition
14 points;

15 “(iv) placing and serving children with
16 disabilities, including minority children, in
17 the least restrictive environment appro-
18 priate;

19 “(v) preventing children with disabil-
20 ities, especially children with emotional dis-
21 turbances and specific learning disabilities,
22 from dropping out of school;

23 “(vi) addressing the reading and lit-
24 eracy needs of children with disabilities;

1 “(vii) reducing the overidentification
2 of children, especially minority and limited
3 English proficient children, as having a
4 disability;

5 “(viii) improving the participation of
6 parents of children with disabilities in the
7 education of their children; and

8 “(ix) resolving disagreements between
9 education personnel and parents through
10 alternate dispute resolution activities in-
11 cluding mediation and voluntary binding
12 arbitration.

13 “(4) INTERIM AND FINAL REPORTS.—The Sec-
14 retary shall submit to the President and the Con-
15 gress—

16 “(A) an interim report that summarizes
17 the preliminary findings of the assessment not
18 later than 30 months after the date of the en-
19 actment of the Improving Education Results for
20 Children With Disabilities Act of 2003; and

21 “(B) a final report of the findings of the
22 assessment not later than 5 years after the date
23 of the enactment of such Act.

24 “(c) ANNUAL REPORT.—The Secretary shall provide
25 an annual report to the Congress that—

1 “(1) summarizes the research conducted under
2 section 663;

3 “(2) analyzes and summarizes the data re-
4 ported by the States and the Secretary of the Inte-
5 rior under section 618;

6 “(3) summarizes the studies and evaluations
7 conducted under this section and the timeline for
8 their completion;

9 “(4) describes the extent and progress of the
10 national assessment; and

11 “(5) describes the findings and determinations
12 resulting from reviews of State implementation of
13 this Act.

14 **“SEC. 667. AUTHORIZATION OF APPROPRIATIONS.**

15 “There are authorized to be appropriated to carry out
16 sections 663, 664, and 666 \$171,861,000 for fiscal year
17 2004 and such sums as may be necessary for each of the
18 fiscal years 2005 through 2009. There are authorized to
19 be appropriated to carry out section 665 \$90,000,000 for
20 fiscal year 2004 and such sums as may be necessary for
21 each of the fiscal years 2005 through 2009.

22 **“Subpart 3—Supports To Improve Results for**
23 **Children With Disabilities**

24 **“SEC. 671. PURPOSES.**

25 “‘The purposes of this subpart are to ensure that—

1 “(1) children with disabilities and their parents
2 receive training and information on their rights, re-
3 sponsibilities, and protections under this Act, in
4 order to develop the skills necessary to cooperatively
5 and effectively participate in planning and decision-
6 making relating to early intervention, educational,
7 and transitional services;

8 “(2) parents, teachers, administrators, early
9 intervention personnel, related services personnel,
10 and transition personnel receive coordinated and ac-
11 cessible technical assistance and information to as-
12 sist them in improving early intervention, edu-
13 cational, and transitional services and results for
14 children with disabilities and their families; and

15 “(3) appropriate technology and media are re-
16 searched, developed, and demonstrated, to improve
17 and implement early intervention, educational, and
18 transitional services and results for children with
19 disabilities and their families.

20 **“SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.**

21 “(a) PROGRAM AUTHORIZED.—The Secretary may
22 make grants to, and enter into contracts and cooperative
23 agreements with, parent organizations to support parent
24 training and information centers to carry out activities
25 under this section.

1 “(b) REQUIRED ACTIVITIES.—Each parent and com-
2 munity training and information center that receives as-
3 sistance under this section shall—

4 “(1) provide training and information that
5 meets the needs of parents of children with disabil-
6 ities living in the area served by the center, includ-
7 ing underserved parents and parents of children who
8 may be inappropriately identified, to enable children
9 with disabilities—

10 “(A) to meet developmental and chal-
11 lenging academic achievement goals that have
12 been established for all children; and

13 “(B) to be prepared to lead productive
14 independent adult lives to the maximum extent
15 possible;

16 “(2) ensure that the training and information
17 provided meets the needs of low-income parents and
18 parents of children with limited English proficiency;

19 “(3) serve the parents of infants, toddlers, and
20 children with the full range of disabilities;

21 “(4) assist parents—

22 “(A) to better understand the nature of
23 their children’s disabilities and their edu-
24 cational, developmental, and transitional needs;

1 “(B) to communicate effectively and work
2 collaboratively with personnel responsible for
3 providing special education, early intervention,
4 transition services, and related services;

5 “(C) to participate in decisionmaking pro-
6 cesses and the development of individualized
7 education programs under part B and individ-
8 ualized family service plans under part C;

9 “(D) to obtain appropriate information
10 about the range, type and quality of options,
11 programs, services, and resources available to
12 assist children with disabilities and their fami-
13 lies in school and at home;

14 “(E) to understand the provisions of this
15 Act for the education of, and the provision of
16 early intervention services to, children with dis-
17 abilities; and

18 “(F) to participate in activities at the
19 school level which benefit their children;

20 “(5) assist parents in resolving disputes in the
21 most expeditious way possible, including encouraging
22 the use, and explaining the benefits, of alternative
23 methods of dispute resolution, such as the use of in-
24 dividualized education program facilitators and me-

1 diation and voluntary binding arbitration processes
2 described in section 615(e);

3 “(6) assist parents to understand the avail-
4 ability of, and how to effectively use, procedural
5 safeguards under this Act;

6 “(7) network with appropriate clearinghouses,
7 including organizations conducting national dissemi-
8 nation activities under subpart 2 and the Institute
9 of Educational Sciences, and with other national,
10 State, and local organizations and agencies, such as
11 protection and advocacy agencies, that serve parents
12 and families of children with the full range of dis-
13 abilities; and

14 “(8) annually report to the Secretary on—

15 “(A) the number and demographics of par-
16 ents to whom it provided information and train-
17 ing in the most recently concluded fiscal year;
18 and

19 “(B) the effectiveness of strategies used to
20 reach and serve parents, including underserved
21 parents of children with disabilities.

22 “(c) OPTIONAL ACTIVITIES.—A parent training and
23 community and information center that receives assistance
24 under this section may—

1 “(1) provide information to teachers and other
2 professionals to assist them in improving results for
3 children with disabilities; and

4 “(2) assist students with disabilities to under-
5 stand their rights and responsibilities under section
6 615(l) on reaching the age of majority.

7 “(d) APPLICATION REQUIREMENTS.—Each applica-
8 tion for assistance under this section shall identify with
9 specificity the special efforts that the applicant will under-
10 take—

11 “(1) to ensure that the needs for training and
12 information of underserved parents of children with
13 disabilities in the area to be served are effectively
14 met; and

15 “(2) to work with community-based organiza-
16 tions, including those that work with low-income
17 parents and parents of children with limited English
18 proficiency.

19 “(e) DISTRIBUTION OF FUNDS.—

20 “(1) IN GENERAL.—The Secretary shall make
21 at least 1 award to a parent organization in each
22 State, unless the Secretary does not receive an appli-
23 cation from such an organization in each State of
24 sufficient quality to warrant approval.

1 “(2) SELECTION REQUIREMENT.—The Sec-
2 retary shall select among applications submitted by
3 parent organizations in a State in a manner that en-
4 sures the most effective assistance to parents, in-
5 cluding parents in urban and rural areas, in the
6 State.

7 “(f) QUARTERLY REVIEW.—

8 “(1) REQUIREMENTS.—

9 “(A) MEETINGS.—The board of directors
10 or special governing committee of each organi-
11 zation that receives an award under this section
12 shall meet at least once in each calendar quar-
13 ter to review the activities for which the award
14 was made.

15 “(B) ADVISING BOARD.—Each special gov-
16 erning committee shall directly advise the orga-
17 nization’s governing board of its views and rec-
18 ommendations.

19 “(2) CONTINUATION AWARD.—When an organi-
20 zation requests a continuation award under this sec-
21 tion, the board of directors or special governing com-
22 mittee shall submit to the Secretary a written review
23 of the parent training and information program con-
24 ducted by the organization during the preceding fis-
25 cal year.

1 “(g) DEFINITION OF PARENT ORGANIZATION.—As
2 used in this section, the term ‘parent organization’ means
3 a private nonprofit organization (other than an institution
4 of higher education) that—

5 “(1) has a board of directors—

6 “(A) the majority of whom are parents of
7 children with disabilities ages birth through 26;

8 “(B) that includes—

9 “(i) individuals working in the fields
10 of special education, related services, and
11 early intervention; and

12 “(ii) individuals with disabilities; and

13 “(C) the parent and professional members
14 of which are broadly representative of the popu-
15 lation to be served, including low-income and
16 limited English proficient parents of children
17 with disabilities; or

18 “(2) has—

19 “(A) a membership that represents the in-
20 terests of individuals with disabilities and has
21 established a special governing committee that
22 meets the requirements of paragraph (1); and

23 “(B) a memorandum of understanding be-
24 tween the special governing committee and the
25 board of directors of the organization that

1 clearly outlines the relationship between the
2 board and the committee and the decision-
3 making responsibilities and authority of each.

4 **“SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.**

5 “(a) IN GENERAL.—The Secretary may make grants
6 to, and enter into contracts and cooperative agreements
7 with, local parent organizations to support parent training
8 and information centers that will help ensure that under-
9 served parents of children with disabilities, including low-
10 income parents, parents of children with limited English
11 proficiency, and parents with disabilities, have the training
12 and information they need to enable them to participate
13 effectively in helping their children with disabilities—

14 “(1) to meet developmental goals and, to the
15 maximum extent possible, those challenging stand-
16 ards that have been established for all children; and

17 “(2) to be prepared to lead productive inde-
18 pendent adult lives, to the maximum extent possible.

19 “(b) REQUIRED ACTIVITIES.—Each parent training
20 and information center assisted under this section shall—

21 “(1) provide training and information that
22 meets the training and information needs of parents
23 of children with disabilities proposed to be served by
24 the grant, contract, or cooperative agreement;

1 “(2) carry out the activities required of parent
2 training and information centers under paragraphs
3 (2) through (7) of section 672(b);

4 “(3) establish cooperative partnerships with the
5 parent training and information centers funded
6 under section 672; and

7 “(4) be designed to meet the specific needs of
8 families who experience significant isolation from
9 available sources of information and support.

10 “(c) DEFINITION.—As used in this section, the term
11 ‘local parent organization’ means a parent organization,
12 as defined in section 672(g), that either—

13 “(1) has a board of directors the majority of
14 whom are from the community to be served; or

15 “(2) has—

16 “(A) as a part of its mission, serving the
17 interests of individuals with disabilities from
18 such community; and

19 “(B) a special governing committee to ad-
20 minister the grant, contract, or cooperative
21 agreement, a majority of the members of which
22 are individuals from such community.

1 **“SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING**
2 **AND INFORMATION CENTERS.**

3 “(a) IN GENERAL.—The Secretary may, directly or
4 through awards to eligible entities (as defined in section
5 662(b)), provide technical assistance for developing, as-
6 sisting, and coordinating parent training and information
7 programs carried out by parent training and information
8 centers receiving assistance under sections 672 and 673.

9 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
10 provide technical assistance to a parent training and infor-
11 mation center under this section in areas such as—

12 “(1) effective coordination of parent training ef-
13 forts;

14 “(2) dissemination of scientifically based re-
15 search and information;

16 “(3) promotion of the use of technology, includ-
17 ing assistive technology devices and assistive tech-
18 nology services;

19 “(4) reaching underserved populations, includ-
20 ing parents of low-income and limited English pro-
21 ficient children with disabilities;

22 “(5) including children with disabilities in gen-
23 eral education programs;

24 “(6) facilitation of transitions from—

25 “(A) early intervention services to pre-
26 school;

1 “(B) preschool to elementary school;

2 “(C) elementary school to secondary
3 school; and

4 “(D) secondary school to postsecondary en-
5 vironments; and

6 “(7) promotion of alternative methods of dis-
7 pute resolution, including mediation and voluntary
8 binding arbitration.

9 **“SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,
10 AND UTILIZATION; AND MEDIA SERVICES.**

11 “(a) IN GENERAL.—The Secretary shall competi-
12 tively make grants to, and enter into contracts and cooper-
13 ative agreements with, eligible entities (as defined in sec-
14 tion 662(b)) to support activities described in subsections
15 (b) and (c).

16 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-
17 TION, AND UTILIZATION.—

18 “(1) IN GENERAL.—In carrying out this sec-
19 tion, the Secretary shall support activities to pro-
20 mote the development, demonstration, and utiliza-
21 tion of technology.

22 “(2) AUTHORIZED ACTIVITIES.—The following
23 activities may be carried out under this subsection:

24 “(A) Conducting research on, and pro-
25 moting the demonstration and use of—

1 “(i) innovative and emerging tech-
2 nologies for children with disabilities; and

3 “(ii) improved transfer of technology
4 from research and development to practice.

5 “(B) Supporting research, development,
6 and dissemination of technology with universal-
7 design features, so that the technology is acces-
8 sible to individuals with disabilities without fur-
9 ther modification or adaptation.

10 “(C) Demonstrating the use of systems to
11 provide parents and teachers with information
12 and training concerning early diagnosis of,
13 intervention for, and effective teaching strate-
14 gies for, young children with reading disabil-
15 ities.

16 “(D) Supporting the implementation of re-
17 search programs.

18 “(E) Communicating information on avail-
19 able technology and the uses of such technology
20 to assist children with disabilities.

21 “(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-
22 TIVITIES.—In carrying out this section, the Secretary may
23 support—

1 “(1) educational media activities that are de-
2 signed to be of educational value in the classroom
3 setting to children with disabilities;

4 “(2) providing video description, open cap-
5 tioning, or closed captioning of television programs,
6 videos or other materials that would be appropriate
7 for use in the classroom setting, or news (until the
8 end of fiscal year 2006), when such services are not
9 provided by the producer or distributor of such in-
10 formation, including programs and materials associ-
11 ated with new and emerging technologies such as
12 CDs, DVDs, video streaming, and other forms of
13 multimedia;

14 “(3) distributing materials described in para-
15 graphs (1) and (2) through such mechanisms as a
16 loan service; and

17 “(4) providing free educational materials, in-
18 cluding textbooks, in accessible media for visually
19 impaired and print-disabled students in elementary,
20 secondary, postsecondary, and graduate schools.

21 “(d) APPLICATIONS.—Any eligible entity (as defined
22 in section 662(b)) that wishes to receive a grant, or enter
23 into a contract or cooperative agreement, under this sec-
24 tion shall submit an application to the Secretary at such
25 time, in such manner, and containing such information as

1 the Secretary may require. For purposes of subsection
2 (c)(4), such entity shall—

3 “(1) be a national, nonprofit entity with a track
4 record of meeting the needs of students with print
5 disabilities through services described in paragraph
6 (4);

7 “(2) have the capacity to produce, maintain,
8 and distribute in a timely fashion, up-to-date text-
9 books in digital audio formats to qualified students;
10 and

11 “(3) have a demonstrated ability to significantly
12 leverage Federal funds through other public and pri-
13 vate contributions, as well as through the expansive
14 use of volunteers.

15 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to carry out section 674
17 \$32,710,000 for fiscal year 2004 and such sums as may
18 be necessary for each of the fiscal years 2005 through
19 2009. There are authorized to be appropriated to carry
20 out sections 672 and 673 \$26,000,000 for fiscal year 2004
21 and such sums as may be necessary for each of the fiscal
22 years 2005 through 2009.”.

1 **TITLE V—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 501. SENSE OF CONGRESS RELATING TO SAFE AND**
4 **DRUG-FREE SCHOOLS.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Providing children with disabilities with a
7 safe, productive, and drug-free learning environment
8 is a laudable goal for our Nation’s schools.

9 (2) Schools are a refuge for students, not a
10 place where drugs and violence are to be tolerated.

11 (3) Every child with a disability in the Nation
12 deserves access to a quality education, including a
13 safe and drug-free learning environment.

14 (4) Local educational agencies, school boards,
15 schools, teachers, administrators, and students all
16 have a responsibility to keep school facilities, includ-
17 ing lockers, drug-free.

18 (5) Random searches of student lockers to seize
19 any illegal drugs or drug paraphernalia has been
20 known to work as an effective method to address the
21 problem of such drugs and paraphernalia. The time
22 of day in which lockers are to be searched should be
23 left to the discretion of the local educational agency.

1 (b) SENSE OF CONGRESS.—It is the sense of the
2 Congress that safe and drug-free schools are essential for
3 the learning and development of children with disabilities.

4 **SEC. 502. STUDY AND REPORT ON STATE COSTS UNDER**
5 **THE INDIVIDUALS WITH DISABILITIES EDU-**
6 **CATION ACT.**

7 (a) STUDY.—The Secretary of Education shall con-
8 duct a study on the amount of cost to States to comply
9 with the requirements of the Individuals with Disabilities
10 Education Act.

11 (b) REPORT.—Not later than 2 years after the date
12 of the enactment of this Act, the Secretary shall prepare
13 and submit to Congress a report that contains the results
14 of the study conducted under subsection (a).

Passed the House of Representatives April 30, 2003.

Attest:

JEFF TRANDAHL,

Clerk.