

104TH CONGRESS
2D SESSION

H. R. 3268

To amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1996

Mr. CUNNINGHAM introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “IDEA Improvement
5 Act of 1996”.

1 **TITLE I—AMENDMENTS TO THE**
 2 **INDIVIDUALS WITH DISABIL-**
 3 **ITIES EDUCATION ACT**

4 **SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DIS-**
 5 **ABILITIES EDUCATION ACT.**

6 Parts A through D of the Individuals with Disabil-
 7 ities Education Act (20 U.S.C. 1400 et seq.) are amended
 8 to read as follows:

9 **“PART A—GENERAL PROVISIONS**

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

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

14 “(b) **TABLE OF CONTENTS.**—The table of contents
 15 for this title 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. Requirements for prescribing regulations.

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

“Sec. 611. Authorization; allotment; use of funds; authorization of appro-
 priations.

“Sec. 612. State requirements.

“Sec. 613. Local educational agency requirements.

“Sec. 614. Evaluations, reevaluations, individualized education programs,
 and educational placements.

“Sec. 615. Procedural safeguards.

“Sec. 616. 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. Purpose of part.

“SUBPART 1—GENERAL PROVISIONS AND NATIONAL RESEARCH AND
IMPROVEMENT ACTIVITIES

- “Sec. 661. Comprehensive plan.
- “Sec. 662. Priorities.
- “Sec. 663. Peer review.
- “Sec. 664. Eligible applicants.
- “Sec. 665. Applicant and recipient responsibilities.
- “Sec. 666. Indirect costs.
- “Sec. 667. Program evaluation.
- “Sec. 668. National assessment.
- “Sec. 669. Authorization of appropriations.

“SUBPART 2—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH
DISABILITIES

- “Sec. 671. Purpose.
- “Sec. 672. Eligibility and collaborative process.
- “Sec. 673. State improvement plans.
- “Sec. 674. Use of funds.
- “Sec. 675. Minimum State allotments.
- “Sec. 676. Authorization of appropriations.

“SUBPART 3—PARENT TRAINING

- “Sec. 681. Grants for parent training and information centers.
- “Sec. 682. Technical assistance for parent training and information centers.
- “Sec. 683. Authorization of appropriations.

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

2 “(1) Disability is a natural part of the human
3 experience and in no way diminishes the right of in-

1 individuals to participate in or contribute to society.
2 Improving educational results for children with dis-
3 abilities is an essential element of our national policy
4 of ensuring equality of opportunity, full participa-
5 tion, independent living, and economic self-suffi-
6 ciency for individuals with disabilities.

7 “(2) Before the date of the enactment of the
8 Education for All Handicapped Children Act of
9 1975 (Public Law 94–142)—

10 “(A) the special educational needs of chil-
11 dren with disabilities were not being fully met;

12 “(B) more than one-half of the children
13 with disabilities in the United States did not re-
14 ceive appropriate educational services that
15 would enable such children to have full equality
16 of opportunity;

17 “(C) 1,000,000 of the children with dis-
18 abilities in the United States were excluded en-
19 tirely from the public school system and did not
20 go through the educational process with their
21 peers;

22 “(D) there were many children with dis-
23 abilities throughout the United States partici-
24 pating in regular school programs whose dis-
25 abilities prevented such children from having a

1 successful educational experience because their
2 disabilities were undetected; and

3 “(E) because of the lack of adequate serv-
4 ices within the public school system, families
5 were often forced to find services outside the
6 public school system, often at great distance
7 from their residence and at their own expense.

8 “(3) Since the enactment and implementation
9 of the Education for All Handicapped Children Act
10 of 1975, this Act has been successful in ensuring
11 children with disabilities and the families of such
12 children access to a free appropriate public edu-
13 cation and in improving educational results for chil-
14 dren with disabilities.

15 “(4) However, the implementation of this Act
16 has been impeded by low expectations, and an insuf-
17 ficient focus on applying replicable research on prov-
18 en methods of teaching and learning for children
19 with disabilities.

20 “(5) 20 years of research and experience has
21 demonstrated that the education of children with
22 disabilities can be made more effective by—

23 “(A) having high expectations for such
24 children and ensuring their access in the gen-

1 eral curriculum to the maximum extent pos-
2 sible;

3 “(B) ensuring that families of such chil-
4 dren have meaningful opportunities to partici-
5 pate in the education of their children at school
6 and at home;

7 “(C) coordinating this Act with other local,
8 State, and Federal school improvement efforts
9 in order to ensure that such children benefit
10 from such efforts and that special education
11 can become a service for such children rather
12 than a place where they are sent;

13 “(D) providing appropriate special edu-
14 cation and related services and aids and sup-
15 ports in the regular classroom to such children,
16 whenever appropriate;

17 “(E) supporting high-quality, intensive
18 professional development for all personnel who
19 work with such children in order to ensure that
20 they have the skills and knowledge necessary to
21 enable them—

22 “(i) to meet developmental goals and,
23 to the maximum extent possible, those
24 challenging expectations that have been es-
25 tablished for all children; and

1 “(ii) to be prepared to lead produc-
2 tive, independent, adult lives, to the maxi-
3 mum extent possible;

4 “(F) providing incentives for whole-school
5 approaches and early intervention to reduce the
6 need to label children as disabled in order to
7 address their learning needs; and

8 “(G) focusing resources on teaching and
9 learning while reducing paperwork and require-
10 ments that do not assist in improving edu-
11 cational results.

12 “(6) While States and local educational agen-
13 cies are responsible for providing an education for
14 all children with disabilities, it is in the national in-
15 terest that the Federal Government have a role in
16 assisting State and local efforts to educate children
17 with disabilities in order to improve results for such
18 children and to ensure equal protection of the law.

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

20 “(1) to ensure that all children with disabilities
21 have available to them a free appropriate public edu-
22 cation that emphasizes special education and related
23 services designed to meet their unique needs and
24 prepare them for employment and independent liv-
25 ing;

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

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

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

9 **“SEC. 602. DEFINITIONS.**

10 “As used in this title:

11 “(1) ASSISTIVE TECHNOLOGY DEVICE.—The
12 term ‘assistive technology device’ means any item,
13 piece of equipment, or product system, whether ac-
14 quired commercially off the shelf, modified, or cus-
15 tomized, that is used to increase, maintain, or im-
16 prove functional capabilities of a child with a disabil-
17 ity.

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

23 “(A) the evaluation of the needs of such
24 child, including a functional evaluation of the
25 child in the child’s customary environment;

1 “(B) purchasing, leasing, or otherwise pro-
2 viding for the acquisition of assistive technology
3 devices by such child;

4 “(C) selecting, designing, fitting, customiz-
5 ing, adapting, applying, maintaining, repairing,
6 or replacing of assistive technology devices;

7 “(D) coordinating and using other thera-
8 pies, interventions, or services with assistive
9 technology devices, such as those associated
10 with existing education and rehabilitation plans
11 and programs;

12 “(E) training or technical assistance for
13 such child, or, where appropriate, the family of
14 such child; and

15 “(F) training or technical assistance for
16 professionals (including individuals providing
17 education and rehabilitation services), employ-
18 ers, or other individuals who provide services to,
19 employ, or are otherwise substantially involved
20 in the major life functions of such child.

21 “(3) CHILD WITH A DISABILITY.—

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

24 “(i) with mental retardation, hearing
25 impairments (including deafness), speech

1 or language impairments, visual impair-
2 ments (including blindness), serious emo-
3 tional disturbance, orthopedic impairments,
4 autism, traumatic brain injury, other
5 health impairments, or specific learning
6 disabilities; and

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

9 “(B) CHILD AGED 3 TO 9.—The term
10 ‘child with a disability’ for a child aged 3 to 9,
11 inclusive, may, at the discretion of the State,
12 include a child—

13 “(i) experiencing developmental
14 delays, as defined by the State and as
15 measured by appropriate diagnostic instru-
16 ments and procedures, in one or more of
17 the following areas: physical development,
18 cognitive development, communication de-
19 velopment, social or emotional develop-
20 ment, or adaptive development; and

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

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

1 “(A) means a regional public multiservice
2 agency—

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

6 “(ii) recognized as an administrative
7 agency for purposes of the provision of
8 special education and related services pro-
9 vided within public elementary and second-
10 ary schools of the State; and

11 “(B) includes any other public institution
12 or agency having administrative control and di-
13 rection over a public elementary or secondary
14 school.

15 “(5) ELEMENTARY SCHOOL.—The term ‘ele-
16 mentary school’ means a day or residential school
17 which provides elementary education, as determined
18 under State law, policy, or procedure.

19 “(6) EQUIPMENT.—The term ‘equipment’ in-
20 cludes—

21 “(A) machinery, utilities, and built-in
22 equipment and any necessary enclosures or
23 structures to house such machinery, utilities, or
24 equipment; and

1 “(B) all other items necessary for the
2 functioning of a particular facility as a facility
3 for the provision of educational services, includ-
4 ing items such as instructional equipment and
5 necessary furniture, printed, published, and
6 audio-visual instructional materials, tele-
7 communications, sensory, and other techno-
8 logical aids and devices, and books, periodicals,
9 documents, and other related materials.

10 “(7) EXCESS COSTS.—The term ‘excess costs’
11 means those costs which are in excess of the average
12 annual per student expenditure in a local edu-
13 cational agency during the preceding school year for
14 an elementary or secondary school student, as may
15 be appropriate, and which shall be computed after
16 deducting—

17 “(A) amounts received—

18 “(i) under part B of this title;

19 “(ii) under part A of title I of the El-
20 ementary and Secondary Education Act of
21 1965; or

22 “(iii) under part A of title VII of such
23 Act; and

1 “(B) any State or local funds expended for
2 programs that would qualify for assistance
3 under any such part.

4 “(8) FREE APPROPRIATE PUBLIC EDU-
5 CATION.—The term ‘free appropriate public edu-
6 cation’ means special education and related services
7 that—

8 “(A) have been provided at public expense,
9 under public supervision and direction, and
10 without charge;

11 “(B) meet the standards of the State edu-
12 cational agency;

13 “(C) include an appropriate preschool, ele-
14 mentary, or secondary school education in the
15 State involved; and

16 “(D) are provided in conformity with the
17 individualized education program required
18 under section 614(d).

19 “(9) INDIAN.—The term ‘Indian’ means an in-
20 dividual who is a member of an Indian tribe.

21 “(10) INDIAN TRIBE.—The term ‘Indian tribe’
22 means any Federal or State Indian tribe, band,
23 rancheria, pueblo, colony, or community, including
24 any Alaskan native village or regional village cor-

1 poration (as defined in or established under the
2 Alaska Native Claims Settlement Act).

3 “(11) INDIVIDUALIZED EDUCATION PRO-
4 GRAM.—The term ‘individualized education program’
5 or ‘IEP’ means a written statement for each child
6 with a disability that is developed, reviewed, and re-
7 vised in accordance with section 614(d) and that in-
8 cludes—

9 “(A) a statement of the child’s present lev-
10 els of educational performance, including—

11 “(i) how the child’s impairment af-
12 fects the child’s participation and progress
13 in the general curriculum; or

14 “(ii) for preschool children, as appro-
15 priate, how the impairment affects the
16 child’s participation in developmentally ap-
17 propriate activities;

18 “(B) a statement of measurable annual ob-
19 jectives related to—

20 “(i) meeting the child’s needs that re-
21 sult from the child’s impairment to enable
22 the child to participate in the general cur-
23 riculum; and

1 “(ii) meeting each of the child’s other
2 educational needs, if any, that result from
3 the child’s impairment;

4 “(C) a statement of how the classroom was
5 adapted before the student was referred for
6 identification as a child with a disability;

7 “(D) a justification of the extent, if any, to
8 which the child will not be educated with non-
9 disabled children;

10 “(E) a statement of the special education
11 and related services and supplementary aids
12 and services to be provided to the child, or on
13 behalf of the child, which shall include, when
14 appropriate, behavior management and behavior
15 modification techniques to be employed by
16 qualified staff to help the child behave in an ap-
17 propriate and responsible manner conducive to
18 learning, and any program modifications or
19 support for school personnel necessary for the
20 child—

21 “(i) to attain the annual objectives de-
22 scribed in subparagraph (B); and

23 “(ii) to participate in the general cur-
24 riculum and in extracurricular and other
25 nonacademic activities;

1 “(F)(i) a statement of any individual modi-
2 fications in the administration of State or dis-
3 trictwide assessments of student achievement
4 that are needed in order for the child to partici-
5 pate in such assessment; and

6 “(ii) if the individualized education pro-
7 gram team determines that the child will not
8 participate in a particular State or districtwide
9 assessment of student achievement (or part of
10 such an assessment), a statement of—

11 “(I) why that assessment is not ap-
12 propriate for the child; and

13 “(II) how the child will be assessed;

14 “(G) the projected date for the beginning
15 of the services and modifications described in
16 subparagraph (E), and the anticipated fre-
17 quency, location, and duration of those services
18 and modifications;

19 “(H) in order to ensure that each child
20 completes secondary school prepared for em-
21 ployment or postsecondary education and inde-
22 pendent living, and understands his or her
23 rights under this title on attaining the age or
24 majority (if the State provides for the transfer
25 of those rights from the parents)—

1 “(i) beginning at age 14 (or younger,
2 if determined appropriate by the IEP
3 Team) and updated annually, a plan for
4 the child’s transition from secondary school
5 that focuses on the child’s courses of study
6 (such as participation in advanced-place-
7 ment courses or a vocational education or
8 school-to-work program) including, when
9 appropriate, a statement of the interagency
10 responsibilities or any needed linkages (or
11 both) before the child leaves the school set-
12 ting;

13 “(ii) beginning at age 16 (or younger,
14 if determined appropriate by the IEP
15 Team), a statement of needed transition
16 services for the child; and

17 “(iii) beginning at least one year be-
18 fore the child reaches the age of majority
19 under State law, a statement concerning
20 the rights under this title, if any, that will
21 transfer to the child on reaching the age of
22 majority under section 615(m); and

23 “(I) a statement of—

1 “(i) how the child’s progress toward
2 the annual objectives described in subpara-
3 graph (B) will be measured; and

4 “(ii) how the child’s parents will be
5 regularly informed (by such means as peri-
6 odic report cards), at least as often as par-
7 ents are informed of their nondisabled chil-
8 dren’s progress, of—

9 “(I) their child’s progress toward
10 such annual objectives; and

11 “(II) the extent to which that
12 progress is sufficient to enable the
13 child to achieve the objectives by the
14 end of the year.

15 “(12) INDIVIDUALIZED EDUCATION PROGRAM
16 TEAM.—The term ‘individualized education program
17 team’ or ‘IEP Team’ means a group of individuals
18 composed of—

19 “(A) the parents of a child with a disabil-
20 ity;

21 “(B) at least one regular education teacher
22 of such child (if the child is, or may be, partici-
23 pating in the regular education environment);

1 “(C) at least one special education teacher,
2 or where appropriate, at least one special edu-
3 cation provider of such child;

4 “(D) a representative of the local edu-
5 cational agency who—

6 “(i) is qualified to provide, or super-
7 vise the provision of, specially designed in-
8 struction to meet the unique needs of chil-
9 dren with disabilities;

10 “(ii) is knowledgeable about the gen-
11 eral curriculum; and

12 “(iii) has the authority to commit re-
13 sources of the local educational agency;

14 “(E) whenever appropriate, the child with
15 a disability; and

16 “(F) other individuals, at the discretion of
17 the parent or the agency.

18 “(13) INSTITUTION OF HIGHER EDUCATION.—

19 The term ‘institution of higher education’—

20 “(A) has the meaning given that term in
21 section 1201(a) of the Higher Education Act of
22 1965; and

23 “(B) also includes any community college
24 receiving funding from the Secretary of the In-

1 terior under the Tribally Controlled Community
2 College Assistance Act of 1978.

3 “(14) LOCAL EDUCATIONAL AGENCY.—The
4 term ‘local educational agency’ means—

5 “(A) a public board of education or other
6 public authority legally constituted within a
7 State for either administrative control or direc-
8 tion of, or to perform a service function for,
9 public elementary or secondary schools in a
10 city, county, township, school district, or other
11 political subdivision of a State, or for a com-
12 bination of school districts or counties as are
13 recognized in a State as an administrative
14 agency for its public elementary or secondary
15 schools;

16 “(B) any other public institution or agency
17 having administrative control and direction of a
18 public elementary or secondary school; or

19 “(C) an educational service agency.

20 “(15) NATIVE LANGUAGE.—The term ‘native
21 language’, when used with reference to an individual
22 of limited English proficiency, means the language
23 normally used by the individual, or in the case of a
24 child, the language normally used by the parents of
25 the child, and includes American Sign Language.

1 “(16) NONPROFIT.—The term ‘nonprofit’ as
2 applied to a school, agency, organization, or institu-
3 tion means a school, agency, organization, or institu-
4 tion owned and operated by one or more nonprofit
5 corporations or associations no part of the net earn-
6 ings of which inures, or may lawfully inure, to the
7 benefit of any private shareholder or individual.

8 “(17) PARENT.—The term ‘parent’ includes a
9 legal guardian or surrogate parent.

10 “(18) PARENT ORGANIZATION.—The term ‘par-
11 ent organization’ means a private nonprofit organi-
12 zation (but not including an institution of higher
13 education) that—

14 “(A) has a board of directors—

15 “(i) the majority of whom are parents
16 of children with disabilities;

17 “(ii) that includes—

18 “(I) individuals working in the
19 fields of special education, related
20 services, and early intervention; and

21 “(II) individuals with disabilities;

22 and

23 “(iii) the parent and professional
24 members of which are broadly representa-
25 tive of the population to be served; or

1 “(B)(i) represents the interests of individ-
2 uals with disabilities and has established a spe-
3 cial governing committee which meets the re-
4 quirements of subparagraph (A); and

5 “(ii) has a memorandum of understanding
6 between the special governing committee and
7 the board of directors of the organization which
8 clearly outlines the relationship between the
9 board and the committee and the decisionmak-
10 ing responsibilities and authority of each.

11 “(19) PARENT TRAINING AND INFORMATION
12 CENTER.—The term ‘parent training and informa-
13 tion center’ means a center that—

14 “(A) provides training and information
15 that meets the training and information needs
16 of parents of children with disabilities living in
17 the area served by the center; and

18 “(B) assists parents—

19 “(i) to better understand the nature
20 of their children’s disabilities and their
21 educational and developmental needs;

22 “(ii) to communicate effectively with
23 personnel responsible for providing special
24 education, early intervention, and related
25 services;

1 “(iii) to participate in decisionmaking
2 processes and the development of the IEP;

3 “(iv) to obtain appropriate informa-
4 tion about the range of options, programs,
5 services, and resources available to assist
6 children with disabilities and their families;

7 “(v) to understand the programs
8 under this title for the education of, and
9 the provision of early intervention services
10 to, children with disabilities; and

11 “(vi) to participate in school reform
12 activities.

13 “(20) RELATED SERVICES.—The term ‘related
14 services’ means transportation, and such devel-
15 opmental, corrective, and other supportive services
16 (including curriculum content specialists’ services,
17 such as services provided by reading and math spe-
18 cialists, speech-language pathology and audiology
19 services, psychological services, physical and occupa-
20 tional therapy, recreation, including therapeutic
21 recreation, social work services, counseling services,
22 including rehabilitation counseling, orientation and
23 mobility services, and medical services, except that
24 such medical services shall be for diagnostic and
25 evaluation purposes only) as may be required to as-

1 sist a child with a disability to benefit from special
2 education, and includes the early identification and
3 assessment of disabling conditions in children.

4 “(21) SECONDARY SCHOOL.—The term ‘second-
5 ary school’ means a day or residential school which
6 provides secondary education, as determined under
7 State law, policy, or procedure, except that it does
8 not include any education provided beyond grade 12.

9 “(22) SECRETARY.—The term ‘Secretary’
10 means the Secretary of Education.

11 “(23) SPECIAL EDUCATION.—The term ‘special
12 education’ means specially designed instruction, at
13 no cost to parents, to meet the unique needs of a
14 child with a disability, including—

15 “(A) instruction and related services con-
16 ducted in the classroom, in the home, in hos-
17 pitals and institutions, and in other settings;
18 and

19 “(B) instruction in physical education.

20 “(24) SPECIFIC LEARNING DISABILITY.—

21 “(A) IN GENERAL.—The term ‘specific
22 learning disability’ means a disorder in one or
23 more of the basic psychological processes in-
24 volved in understanding or in using language,
25 spoken or written, which disorder may manifest

1 itself in imperfect ability to listen, think, speak,
2 read, write, spell, or do mathematical calcula-
3 tions.

4 “(B) DISORDERS INCLUDED.—Such term
5 includes such conditions as perceptual disabil-
6 ities, brain injury, minimal brain dysfunction,
7 dyslexia, and developmental aphasia.

8 “(C) DISORDERS NOT INCLUDED.—Such
9 term does not include a learning problem that
10 is primarily the result of visual, hearing, or
11 motor disabilities, of mental retardation, of
12 emotional disturbance, or of environmental, cul-
13 tural, or economic disadvantage.

14 “(25) STATE.—The term ‘State’ means each of
15 the 50 States, the District of Columbia, the Com-
16 monwealth of Puerto Rico, and each of the terri-
17 tories.

18 “(26) STATE EDUCATIONAL AGENCY.—The
19 term ‘State educational agency’ means the State
20 board of education or other agency or officer pri-
21 marily responsible for the State supervision of public
22 elementary and secondary schools, or, if there is no
23 such officer or agency, an officer or agency des-
24 ignated by the Governor or by State law.

1 “(27) TERRITORY.—The term ‘territory’ means
2 American Samoa, the Commonwealth of the North-
3 ern Mariana Islands, Guam, and the Virgin Islands.

4 “(28) TRANSITION SERVICES.—The term ‘tran-
5 sition services’ means a coordinated set of activities
6 for a child with a disability that—

7 “(A) are designed within an outcome-ori-
8 ented process, which promotes movement from
9 school to post-school activities, including post-
10 secondary education, vocational training, inte-
11 grated employment (including supported em-
12 ployment), continuing and adult education,
13 adult services, independent living, or community
14 participation;

15 “(B) are based upon the individual child’s
16 needs, taking into account the child’s pref-
17 erences and interests; and

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

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

2 “(a) ESTABLISHMENT.—There shall be, within the
3 Office of Special Education and Rehabilitative Services in
4 the Department of Education, an Office of Special Edu-
5 cation Programs which shall be the principal agency in
6 such Department for administering and carrying out this
7 title and other programs and activities concerning the edu-
8 cation and training of children with disabilities.

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

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

19 **“SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.**

20 “(a) IN GENERAL.—A State shall not be immune
21 under the eleventh amendment to the Constitution of the
22 United States from suit in Federal court for a violation
23 of this title.

24 “(b) REMEDIES.—In a suit against a State for a vio-
25 lation of this title, remedies (including remedies both at
26 law and in equity) are available for such a violation to

1 the same extent as such remedies are available for such
2 a violation in the suit against any public entity other than
3 a State.

4 “(c) EFFECTIVE DATE.—The provisions of sub-
5 sections (a) and (b) apply with respect to violations that
6 occur in whole or part after the date of the enactment
7 of the Education of the Handicapped Act Amendments of
8 1990.

9 **“SEC. 605. REQUIREMENTS FOR PRESCRIBING REGULA-**
10 **TIONS.**

11 “(a) PUBLIC-COMMENT PERIOD.—The Secretary
12 shall provide a public-comment period of at least 90 days
13 on any regulation proposed under part B or part C of this
14 title on which an opportunity for public comment is other-
15 wise required by law.

16 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
17 Secretary may not implement, or publish in final form,
18 any regulation prescribed pursuant to this title which
19 would procedurally or substantively lessen the protections
20 provided to children with disabilities under this title, as
21 embodied in regulations in effect on July 20, 1983 (par-
22 ticularly as such protections relate to parental consent to
23 initial evaluation or initial placement in special education,
24 least restrictive environment, related services, timeliness,
25 attendance of evaluation personnel at individualized edu-

1 cation program meetings, or qualifications of personnel),
2 except to the extent that such regulation reflects the clear
3 and unequivocal intent of the Congress in legislation.

4 “(c) CORRESPONDENCE FROM DEPARTMENT OF
5 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
6 PART.—

7 “(1) IN GENERAL.—The Secretary shall, on a
8 quarterly basis, publish in the Federal Register, and
9 widely disseminate to interested entities through var-
10 ious additional forms of communication, a list of
11 correspondence from the Department of Education
12 received by individuals during the previous quarter
13 that describes the interpretations of the Department
14 of Education of this part or the regulations imple-
15 mented pursuant to this part.

16 “(2) ADDITIONAL INFORMATION.—For each
17 item of correspondence published in a list under
18 paragraph (1), the Secretary shall identify the topic
19 addressed by the correspondence and shall include
20 such other summary information as the Secretary
21 determines to be appropriate.

22 “(3) RESTRICTIONS ON USE OF CORRESPOND-
23 ENCE.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), an item of correspondence

1 published and disseminated under paragraph
2 (1) may not be used in the following:

3 “(i) An administrative or due process
4 action commenced under section 615.

5 “(ii) A compliance review or other ac-
6 tion relating to a State educational agency
7 conducted by the Department of Edu-
8 cation.

9 “(iii) A compliance review or other ac-
10 tion relating to a local educational agency
11 or other agency conducted by a State edu-
12 cational agency.

13 “(B) EXCEPTIONS.—A restriction on the
14 use of an item of correspondence under sub-
15 paragraph (A) shall not apply if the item of
16 correspondence—

17 “(i) is directly related to the particu-
18 lar fact situation, practice, or policy at
19 issue under clause (i) or (iii) of subpara-
20 graph (A); and

21 “(ii)(I) was originally directed to one
22 of the parties to the action under subpara-
23 graph (A)(i); or

1 “(II) was originally directed to the
2 particular local educational agency or other
3 agency under subparagraph (A)(iii); or

4 “(ii) was originally directed to the
5 particular State educational agency under
6 subparagraph (A)(ii).

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

9 **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
10 **AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) AUTHORIZATION.—The Secretary of Education
12 shall provide grants to States and provide amounts to the
13 Secretary of the Interior for the purpose of providing spe-
14 cial education and related services to children with disabil-
15 ities in accordance with this part.

16 “(b) ALLOTMENT AMONG STATES.—

17 “(1) RESERVATION FOR THE TERRITORIES.—

18 “(A) IN GENERAL.—Of the amount appro-
19 priated pursuant to subsection (e) to carry out
20 this part for a fiscal year, the Secretary shall
21 allot not more than one percent among the ter-
22 ritories in accordance with this paragraph.

23 “(B) BASIS FOR ALLOTMENT.—The Sec-
24 retary shall allot to each territory an amount
25 that bears the same proportion to the amount

1 appropriated pursuant to subsection (e) for a
2 fiscal year as the number of individuals aged 3
3 to 21, inclusive, residing in such territory bears
4 to the aggregate number of such individuals re-
5 siding in all such territories.

6 “(C) PROHIBITION ON CONSOLIDATION OF
7 GRANTS.—The provisions of section 501 of
8 Public Law 95–134 (48 U.S.C. 1469a; relating
9 to the consolidation of one or more grants pro-
10 vided to certain territories) shall not apply with
11 respect to amounts provided to a territory
12 under a grant under this part.

13 “(2) SECRETARY OF THE INTERIOR.—Of the
14 amount appropriated pursuant to subsection (e) to
15 carry out this part for a fiscal year, the Secretary
16 shall provide to the Secretary of the Interior an
17 amount equal to not more than one percent to carry
18 out subsection (d) (relating to special education and
19 related services for Indian children with disabilities).

20 “(3) STATES.—

21 “(A) IN GENERAL.—After determining the
22 amount to be allotted to the territories under
23 paragraph (1) and the amount to be provided
24 to the Secretary of the Interior under para-
25 graph (2) for a fiscal year, the Secretary shall

1 allot the remaining amount to the remaining
2 States in accordance with this paragraph.

3 “(B) BASIS FOR ALLOTMENT.—Except as
4 provided in subparagraph (D), the Secretary
5 shall allot to each State an amount equal to the
6 sum of the following amounts:

7 “(i) The amount equal to—

8 “(I) 85 percent of the remaining
9 amount described in subparagraph
10 (A); multiplied by

11 “(II) the child population per-
12 centage of the State (as determined
13 under subparagraph (C)(i)).

14 “(ii) The amount equal to—

15 “(I) 15 percent of the remaining
16 amount described in subparagraph
17 (A); multiplied by

18 “(II) the child poverty percentage
19 of the State (as determined under
20 subparagraph (C)(ii)).

21 “(C) DETERMINATION OF CHILD POPU-
22 LATION PERCENTAGE AND CHILD POVERTY
23 PERCENTAGE.—

1 “(i) CHILD POPULATION PERCENT-
2 AGE.—The child population percentage
3 shall be determined by comparing—

4 “(I) the number of children aged
5 3 to 21, inclusive, in the State who
6 are of the same age as children with
7 disabilities for whom the State en-
8 sures the availability of a free appro-
9 priate public education; to

10 “(II) the number of such children
11 in all States.

12 “(ii) CHILD POVERTY PERCENTAGE.—
13 The child poverty percentage shall be de-
14 termined by comparing—

15 “(I) the number of children aged
16 3 to 21, inclusive, in the State living
17 in poverty who are of the same age as
18 children with disabilities for whom the
19 State ensures the availability of a free
20 appropriate public education; to

21 “(II) the number of such children
22 in all States.

23 “(D) TRANSITION FORMULA.—For each of
24 the fiscal years 1997 through 2005, the Sec-
25 retary shall allot the remaining amount to the

1 remaining States in accordance with the follow-
2 ing:

3 “(i) FISCAL YEAR 1997.—For fiscal
4 year 1997, the Secretary shall allot to each
5 remaining State the sum of—

6 “(I) 10 percent multiplied by the
7 amount determined for such State
8 under subparagraph (B); and

9 “(II) 90 percent multiplied by
10 the amount determined for such State
11 under subparagraph (E).

12 “(ii) FISCAL YEAR 1998.—For fiscal
13 year 1998, the Secretary shall allot to each
14 remaining State the sum of—

15 “(I) 20 percent multiplied by the
16 amount determined for such State
17 under subparagraph (B); and

18 “(II) 80 percent multiplied by
19 the amount determined for such State
20 under subparagraph (E).

21 “(iii) FISCAL YEAR 1999.—For fiscal
22 year 1999, the Secretary shall allot to each
23 remaining State the sum of—

1 “(I) 30 percent multiplied by the
2 amount determined for such State
3 under subparagraph (B); and

4 “(II) 70 percent multiplied by
5 the amount determined for such State
6 under subparagraph (E).

7 “(iv) FISCAL YEAR 2000.—For fiscal
8 year 2000, the Secretary shall allot to each
9 remaining State the sum of—

10 “(I) 40 percent multiplied by the
11 amount determined for such State
12 under subparagraph (B); and

13 “(II) 60 percent multiplied by
14 the amount determined for such State
15 under subparagraph (E).

16 “(v) FISCAL YEAR 2001.—For fiscal
17 year 2001, the Secretary shall allot to each
18 remaining State the sum of—

19 “(I) 50 percent multiplied by the
20 amount determined for such State
21 under subparagraph (B); and

22 “(II) 50 percent multiplied by
23 the amount determined for such State
24 under subparagraph (E).

1 “(vi) FISCAL YEAR 2002.—For fiscal
2 year 2002, the Secretary shall allot to each
3 remaining State the sum of—

4 “(I) 60 percent multiplied by the
5 amount determined for such State
6 under subparagraph (B); and

7 “(II) 40 percent multiplied by
8 the amount determined for such State
9 under subparagraph (E).

10 “(vii) FISCAL YEAR 2003.—For fiscal
11 year 2003, the Secretary shall allot to each
12 remaining State the sum of—

13 “(I) 70 percent multiplied by the
14 amount determined for such State
15 under subparagraph (B); and

16 “(II) 30 percent multiplied by
17 the amount determined for such State
18 under subparagraph (E).

19 “(viii) FISCAL YEAR 2004.—For fiscal
20 year 2004, the Secretary shall allot to each
21 remaining State the sum of—

22 “(I) 80 percent multiplied by the
23 amount determined for such State
24 under subparagraph (B); and

1 “(II) 20 percent multiplied by
2 the amount determined for such State
3 under subparagraph (E).

4 “(ix) FISCAL YEAR 2005.—For fiscal
5 year 2005, the Secretary shall allot to each
6 remaining State the sum of—

7 “(I) 90 percent multiplied by the
8 amount determined for such State
9 under subparagraph (B); and

10 “(II) 10 percent multiplied by
11 the amount determined for such State
12 under subparagraph (E).

13 “(E) BASE AMOUNT FOR 1996.—

14 “(i) IN GENERAL.—Subject to clause
15 (ii), the amount determined under this
16 subparagraph for a State is the amount
17 that bears the same proportion to the re-
18 maining amount (described in subpara-
19 graph (A)) for the fiscal year under sub-
20 paragraph (D) as the amount received by
21 the State under this section for fiscal year
22 1996 bears to the aggregate of the
23 amounts received by the remaining States
24 (described in subparagraph (A)) under this
25 section for fiscal year 1996.

1 “(ii) REDUCTION IN AMOUNT.—If the
2 State received an amount under this sec-
3 tion for fiscal year 1996 on the basis of
4 children aged 3 to 5, inclusive, in such
5 State, but the State does not make a free
6 appropriate public education available to
7 all children with disabilities aged 3 to 5,
8 inclusive, in the State at the time a deter-
9 mination is made under subparagraph (C),
10 the Secretary shall reduce, on a propor-
11 tional basis, the amount under clause (i)
12 for purposes of allotting amounts under
13 such subparagraph.

14 “(4) SPECIAL RULE WITH RESPECT TO PUERTO
15 RICO.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of this subsection, the amount
18 allotted to Puerto Rico for a fiscal year shall
19 bear the same or lower proportion to the re-
20 maining amount (described in paragraph
21 (3)(A)) as the amount received by Puerto Rico
22 under this section for fiscal year 1996 bears to
23 the aggregate of the amounts received by the
24 remaining States (as described in paragraph
25 (3)(A)) under this section for fiscal year 1996.

1 “(B) ADJUSTMENT IN AMOUNTS TO RE-
2 MAINING STATES.—If the amount allotted to
3 Puerto Rico for a fiscal year is determined
4 under subparagraph (A), the Secretary shall
5 reallot to the remaining States (as described in
6 paragraph (3)(A)), on a proportional basis, any
7 amount not otherwise allotted to Puerto Rico.

8 “(5) USE OF MOST RECENT POPULATION
9 DATA.—For the purpose of providing grants under
10 this part, the Secretary shall use the most recent
11 population data and data on children aged 3 to 21,
12 inclusive, living in poverty that are available and sat-
13 isfactory to the Secretary.

14 “(c) USE OF FUNDS BY STATE.—

15 “(1) RESERVATION FOR STATE ACTIVITIES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (D), a State may reserve not more than
18 10 percent of the amount allotted to the State
19 under paragraph (1) or (3) of subsection (b) for
20 a fiscal year for administration and other State-
21 level activities in accordance with subpara-
22 graphs (B) and (C).

23 “(B) STATE ADMINISTRATION.—

24 “(i) IN GENERAL.—For the purpose
25 of administering programs under this part,

1 including the coordination of activities
2 under this part with, and providing tech-
3 nical assistance to, other programs that
4 provide services to children with disabil-
5 ities—

6 “(I) each territory may use up to
7 3 percent of the amount allotted to
8 the territory for a fiscal year, or
9 \$35,000, whichever is greater; and

10 “(II) each remaining State may
11 use up to 3 percent of the amount al-
12 lotted to the State for a fiscal year, or
13 \$450,000, whichever is greater.

14 “(ii) USE OF AMOUNTS FOR ADMINIS-
15 TRATION OF PART C.—If the State edu-
16 cational agency is the lead agency for the
17 State under part C, amounts described in
18 clause (i) may also be used for the admin-
19 istration of part C.

20 “(C) OTHER STATE-LEVEL ACTIVITIES.—A
21 State shall use any amounts reserved under
22 subparagraph (A) for a fiscal year that are not
23 used for administration under subparagraph
24 (B) for such fiscal year—

1 “(i) for support and direct services,
2 including technical assistance and person-
3 nel development and training;

4 “(ii) for administrative costs of mon-
5 itoring and complaint investigation, but
6 only to the extent that such costs exceed
7 the costs incurred for those activities dur-
8 ing fiscal year 1985;

9 “(iii) to establish and implement the
10 mediation process required by section
11 615(d);

12 “(iv) to assist local educational agen-
13 cies in meeting personnel shortages;

14 “(v) to develop a State improvement
15 plan under part D;

16 “(vi) for activities at the State and
17 local levels to meet the performance goals
18 established by the State under section
19 612(a)(14) and to support implementation
20 of the State improvement plan under part
21 D if the State receives funds under that
22 part; or

23 “(vii) to supplement other amounts
24 used to develop and implement a Statewide
25 coordinated services system designed to im-

1 prove results for children and families, in-
2 cluding children with disabilities and their
3 families, but not to exceed one percent of
4 the amount received by the State under
5 this section (such system shall be coordi-
6 nated with and, to the extent appropriate,
7 build on the system of coordinated services
8 developed by the State under part C).

9 “(D) ADDITIONAL AMOUNTS.—Subject to
10 the approval of the Secretary, a State may re-
11 serve up to an additional 15 percent of the
12 amount allotted to the State under paragraph
13 (1) or (3) of subsection (b) for a fiscal year for
14 the purpose of carrying out clause (i), (ii), (iii),
15 or (iv) of subparagraph (C).

16 “(2) SUBGRANTS TO LOCAL EDUCATIONAL
17 AGENCIES AND CERTAIN STATE AGENCIES.—

18 “(A) IN GENERAL.—The State shall pro-
19 vide at least 90 percent of the amount received
20 under a grant for a fiscal year to local edu-
21 cational agencies in the State that have estab-
22 lished their eligibility under section 613, and to
23 State agencies that received funds under section
24 614A(a) (as such section was in effect on the
25 day before the date of the enactment of the

1 IDEA Improvement Act of 1996) for fiscal year
2 1996 and have established their eligibility under
3 section 613, for use in accordance with this
4 part.

5 “(B) METHODS OF DISTRIBUTION.—A
6 State may provide amounts under subpara-
7 graph (A) to local educational agencies and
8 State agencies described under such subpara-
9 graph on the basis of—

10 “(i) school-age population;

11 “(ii) school enrollment;

12 “(iii) numbers of children with disabil-
13 ities receiving a free appropriate public
14 education;

15 “(iv) allocations for previous fiscal
16 years;

17 “(v) any two or more of the factors
18 described in clauses (i) through (iv); or

19 “(vi) poverty, in combination with one
20 or more of the factors described in clauses
21 (i) through (iv).

22 “(C) FORMER CHAPTER 1 STATE AGEN-
23 CIES.—

24 “(i) IN GENERAL.—To the extent nec-
25 essary for each of the fiscal years 1997,

1 1998, and 1999, the State shall use
2 amounts that are available under para-
3 graph (1)(A) to ensure that each State
4 agency that received amounts in fiscal year
5 1994 under subpart 2 of part D of chapter
6 1 of title I of the Elementary and Second-
7 ary Education Act of 1965 (as such sub-
8 part was in effect on the day before the
9 date of the enactment of the Improving
10 America’s Schools Act of 1994) receives,
11 from the combination of funds under para-
12 graph (1)(A) and funds provided under
13 subparagraph (A), an amount equal to—

14 “(I) the number of children with
15 disabilities, aged 6 to 21, inclusive, to
16 whom the agency was providing spe-
17 cial education and related services on
18 December 1 of the fiscal year for
19 which the funds were appropriated,
20 subject to the methods of distribution
21 under subparagraph (B); multiplied
22 by

23 “(II) the per-child amount pro-
24 vided under such subpart for fiscal
25 year 1994.

1 “(ii) ADDITIONAL USE OF
2 AMOUNTS.—The State may use amounts
3 described in clause (i) to ensure that each
4 local educational agency that received fis-
5 cal year 1994 funds under that subpart for
6 children who had transferred from a State-
7 operated or State-supported school or pro-
8 gram assisted under that subpart receives,
9 from the combination of funds available
10 under paragraph (1)(A) and funds pro-
11 vided under subparagraph (A), an amount
12 for each such child, aged 3 to 21, inclusive,
13 to whom the agency was providing special
14 education and related services on Decem-
15 ber 1 of the fiscal year for which the funds
16 were appropriated, equal to the per-child
17 amount the agency received under that
18 subpart for fiscal year 1994.

19 “(iii) DETERMINATION OF NUMBER
20 OF CHILDREN.—The number of children
21 counted under clause (i)(I) shall not exceed
22 the number of children aged 3 to 21, inclu-
23 sive, for whom the agency received
24 amounts in fiscal year 1994 under subpart
25 2 of part D of chapter 1 of title I of the

1 Elementary and Secondary Education Act
2 of 1965 (as such subpart was in effect on
3 the day before the date of the enactment
4 of the Improving America’s Schools Act of
5 1994).

6 “(D) REALLOCATION OF AMOUNTS.—If a
7 State educational agency determines that a
8 local educational agency is adequately providing
9 a free appropriate public education to all chil-
10 dren with disabilities residing in the area served
11 by that agency with State and local funds, the
12 State educational agency may reallocate any
13 portion of amounts received under a grant
14 under this part that are not needed by that
15 local agency to other local educational agencies
16 in the State that are not adequately providing
17 special education and related services to all chil-
18 dren with disabilities residing in the areas they
19 serve.

20 “(d) USE OF AMOUNTS BY SECRETARY OF THE IN-
21 TERIOR.—

22 “(1) PROVISION OF AMOUNTS FOR ASSIST-
23 ANCE.—

24 “(A) IN GENERAL.—The Secretary of Edu-
25 cation shall provide amounts to the Secretary of

1 the Interior to meet the need for assistance for
2 the education of children with disabilities on
3 reservations aged 5 to 21, inclusive, enrolled in
4 elementary and secondary schools for Indian
5 children operated or funded by the Secretary of
6 the Interior.

7 “(B) CALCULATION OF NUMBER OF CHIL-
8 DREN.—In the case of Indian students ages 3
9 to 5, inclusive, who are enrolled in programs af-
10 filiated with Bureau of Indian Affairs (here-
11 after in this subsection referred to as ‘BIA’)
12 schools and that are required by the States in
13 which such schools are located to attain or
14 maintain State accreditation, and which schools
15 have such accreditation prior to the date of en-
16 actment of the Individuals with Disabilities
17 Education Act Amendments of 1991, the school
18 shall be allowed to count those children for the
19 purpose of distribution of the funds provided
20 under this paragraph to the Secretary of the
21 Interior. The Secretary of the Interior shall be
22 responsible for meeting all of the requirements
23 of this part for these children, in accordance
24 with paragraph (2). The amount of such pay-
25 ment for any fiscal year shall be equal to 80

1 percent of the amount allotted under subsection
2 (b)(2) for that fiscal year.

3 “(C) ADDITIONAL REQUIREMENT.—With
4 respect to all other children aged 3 to 21, inclu-
5 sive, on reservations, the State educational
6 agency shall be responsible for ensuring that all
7 of the requirements of this part are imple-
8 mented.

9 “(2) SUBMISSION OF INFORMATION.—The Sec-
10 retary of Education may provide the Secretary of
11 the Interior amounts under paragraph (1) for a fis-
12 cal year only if the Secretary of the Interior submits
13 to the Secretary of Education information that—

14 “(A) demonstrates that the Department of
15 the Interior meets the appropriate require-
16 ments, as determined by the Secretary of Edu-
17 cation, of sections 612 (including monitoring
18 and evaluation activities) and 613;

19 “(B) includes a description of how the Sec-
20 retary of the Interior will coordinate the provi-
21 sion of services under this part with local edu-
22 cational agencies, tribes and tribal organiza-
23 tions, and other private and Federal service
24 providers;

1 “(C) includes an assurance that there are
2 public hearings, adequate notice of such hear-
3 ings, and an opportunity for comment afforded
4 to members of tribes, tribal governing bodies,
5 and affected local school boards before the
6 adoption of the policies, programs, and proce-
7 dures described in subparagraph (A);

8 “(D) includes an assurance that the Sec-
9 retary of the Interior will provide such informa-
10 tion as the Secretary of Education may require
11 to comply with section 618;

12 “(E) includes an assurance that the Sec-
13 retary of the Interior and the Secretary of
14 Health and Human Services have entered into
15 a memorandum of agreement, to be provided to
16 the Secretary of Education, for the coordination
17 of services, resources, and personnel between
18 their respective Federal, State, and local offices
19 and with State and local educational agencies
20 and other entities to facilitate the provision of
21 services to Indian children with disabilities re-
22 siding on or near reservations (such agreement
23 shall provide for the apportionment of respon-
24 sibilities and costs including, but not limited to,
25 child find, evaluation, diagnosis, remediation or

1 therapeutic measures, and (where appropriate)
2 equipment and medical or personal supplies as
3 needed for a child to remain in school or a pro-
4 gram); and

5 “(F) includes an assurance that the De-
6 partment of the Interior will cooperate with the
7 Department of Education in its exercise of
8 monitoring and oversight of this application,
9 and any agreements entered into between the
10 Secretary of the Interior and other entities
11 under this part, and will fulfill its duties under
12 this part.

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

15 “(3) PAYMENTS FOR EDUCATION AND SERVICES
16 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3
17 TO 5.—

18 “(A) IN GENERAL.—With funds appro-
19 priated under subsection (e), the Secretary shall
20 make payments to the Secretary of the Interior
21 to be distributed to tribes or tribal organiza-
22 tions (as defined under section 4 of the Indian
23 Self-Determination and Education Assistance
24 Act) or consortia of the above to provide for the
25 coordination of assistance for special education

1 and related services for children with disabilities
2 aged 3 to 5, inclusive, on reservations served by
3 elementary and secondary schools for Indian
4 children operated or funded by the Department
5 of the Interior. The amount of such payments
6 under subparagraph (B) for any fiscal year
7 shall be equal to 20 percent of the amount al-
8 lotted under subsection (b)(2).

9 “(B) DISTRIBUTION OF FUNDS.—The Sec-
10 retary of the Interior shall distribute the total
11 amount of the payment under subparagraph
12 (A) by allocating to each tribe or tribal organi-
13 zation an amount based on the number of chil-
14 dren with disabilities, ages 3 to 5, inclusive, re-
15 siding on reservations as reported annually di-
16 vided by the total of such children served by all
17 tribes or tribal organizations.

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

1 “(D) USE OF FUNDS.—The funds received
2 by a tribe or tribal organization shall be used
3 to assist in child find, screening, and other pro-
4 cedures for the early identification of children
5 aged 3 to 5, inclusive, parent training, and the
6 provision of direct services. These activities may
7 be carried out directly or through contracts or
8 cooperative agreements with the BIA, local edu-
9 cational agencies, and other public or private
10 nonprofit organizations. The tribe or tribal or-
11 ganization is encouraged to involve Indian par-
12 ents in the development and implementation of
13 these activities. The above entities shall, as ap-
14 propriate, make referrals to local, State, or
15 Federal entities for the provision of services or
16 further diagnosis.

17 “(E) BIENNIAL REPORT.—To be eligible to
18 receive a grant pursuant to subparagraph (A),
19 the tribe or tribal organization shall provide to
20 the Secretary of the Interior a biennial report
21 of activities undertaken under this paragraph,
22 including the number of contracts and coopera-
23 tive agreements entered into, the number of
24 children contacted and receiving services for
25 each year and the estimated number of children

1 needing services during the 2 years following
2 the one in which the report is made. The Sec-
3 retary of the Interior shall include a summary
4 of this information on a biennial basis in the
5 report to the Secretary of Education required
6 under this subsection. The Secretary of Edu-
7 cation may require any additional information
8 from the Secretary of the Interior.

9 “(F) PROHIBITIONS.—None of the funds
10 allocated under this paragraph may be used by
11 the Secretary of the Interior for administrative
12 purposes, including child count and the provi-
13 sion of technical assistance.

14 “(4) PLAN FOR COORDINATION OF SERVICES.—
15 The Secretary of the Interior shall develop and im-
16 plement a plan for the coordination of services for
17 all Indian children with disabilities residing on res-
18 ervations covered under this Act. Such plan shall
19 provide for the coordination of services benefiting
20 these children from whatever source, including
21 tribes, the Indian Health Service, other BIA divi-
22 sions, and other Federal agencies. In developing
23 such a plan, the Secretary of the Interior shall con-
24 sult with all interested and involved parties. It shall
25 be based upon the needs of the children and the sys-

1 tem best suited for meeting those needs, and may in-
2 volve the establishment of cooperative agreements
3 between the BIA, other Federal agencies, and other
4 entities. Such plan shall also be distributed upon re-
5 quest to States, State and local educational agencies,
6 and other agencies providing services to infants, tod-
7 dlers, children, and youth with disabilities, to tribes,
8 and to other interested parties.

9 “(5) ESTABLISHMENT OF ADVISORY BOARD.—

10 To meet the requirements of section 612(a)(18), the
11 Secretary of the Interior shall establish, not later
12 than 6 months after the date of the enactment of
13 the IDEA Improvement Act of 1996, under the Bu-
14 reau of Indian Affairs (BIA), an advisory board
15 composed of individuals involved in or concerned
16 with the education and provision of services to In-
17 dian infants, toddlers, children, and youth with dis-
18 abilities, including Indians with disabilities, Indian
19 parents or guardians of such children, teachers,
20 service providers, State and local educational offi-
21 cials, representatives of tribes or tribal organiza-
22 tions, representatives from State Interagency Co-
23 ordinating Councils in States having reservations,
24 and other members representing the various divi-
25 sions and entities of the BIA. The chairperson shall

1 be selected by the Secretary of the Interior. The ad-
2 visory board shall—

3 “(A) assist in the coordination of services
4 within BIA and with other local, State, and
5 Federal agencies in the provision of education
6 for infants, toddlers, children, and youth with
7 disabilities;

8 “(B) advise and assist the Secretary of the
9 Interior in the performance of the Secretary’s
10 responsibilities described in this subsection;

11 “(C) develop and recommend policies con-
12 cerning effective inter- and intra-agency collabo-
13 ration, including modifications to regulations,
14 and the elimination of barriers to inter- and
15 intra-agency programs and activities;

16 “(D) provide assistance and disseminate
17 information on best practices, effective program
18 coordination strategies, and recommendations
19 for improved educational programming for In-
20 dian infants, toddlers, children, and youth with
21 disabilities; and

22 “(E) provide assistance in the preparation
23 of information required under paragraph
24 (2)(D).

25 “(6) ANNUAL REPORTS.—

1 “(A) IN GENERAL.—The advisory board
2 established under paragraph (5) shall prepare
3 and submit to the Secretary of the Interior an
4 annual report containing a description of the
5 activities of the advisory board for the preced-
6 ing year.

7 “(B) AVAILABILITY.—The Secretary shall
8 make available to the Secretary of Education
9 the report described in subparagraph (A).

10 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
11 purpose of carrying out this part (except for section 619;
12 relating to preschool grants), there are authorized to be
13 appropriated to the Secretary such sums as may be nec-
14 essary.

15 **“SEC. 612. STATE REQUIREMENTS.**

16 “(a) IN GENERAL.—A State shall be eligible to re-
17 ceive a grant under this part for a fiscal year if, except
18 as provided in subsection (c), the State submits to the Sec-
19 retary information that demonstrates to the satisfaction
20 of the Secretary that the State has in effect policies and
21 procedures to ensure that it meets each of the following
22 requirements:

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

1 “(A) IN GENERAL.—A free appropriate
2 public education is available to all children with
3 disabilities residing in the State between the
4 ages of 3 and 21, inclusive.

5 “(B) LIMITATION.—Subparagraph (A)
6 shall not apply with respect to children with
7 disabilities aged 3 to 5 and children with dis-
8 abilities aged 18 to 21 to the extent that such
9 application to those children would be inconsis-
10 tent with State law or practice, or the order of
11 any court, relating to the provision of public
12 education to children in such age ranges.

13 “(2) CHILD FIND.—All children with disabilities
14 residing in the State are identified, located, and
15 evaluated, including children in private schools, re-
16 gardless of the severity of such disabilities.

17 “(3) INDIVIDUALIZED EDUCATION PROGRAM.—
18 An individualized education program, or an individ-
19 ualized family service plan that meets the require-
20 ments of section 636(d), is developed, reviewed, and
21 revised for each child with a disability in accordance
22 with section 614(d).

23 “(4) LEAST RESTRICTIVE ENVIRONMENT.—

24 “(A) IN GENERAL.—To the maximum ex-
25 tent appropriate—

1 “(i) children with disabilities, includ-
2 ing children in public or private institu-
3 tions or other care facilities, are educated
4 with children who are not disabled; and

5 “(ii) special classes, separate school-
6 ing, or other removal of children with dis-
7 abilities from the regular educational envi-
8 ronment occurs only when the nature or
9 severity of the disability of a child means
10 that education in regular classes with the
11 use of supplementary aids and services
12 cannot be achieved satisfactorily.

13 “(B) ADDITIONAL REQUIREMENT.—

14 “(i) IN GENERAL.—The State’s meth-
15 od of distributing funds shall not result in
16 placements that violate the requirements of
17 subparagraph (A).

18 “(ii) EXCEPTION.—If the State does
19 not have policies and procedures to ensure
20 compliance with clause (i), the State shall
21 provide the Secretary an assurance that it
22 will revise the funding mechanism as soon
23 as feasible to ensure that such mechanism
24 does not result in such placements.

1 “(5) PROCEDURAL SAFEGUARDS.—Children
2 with disabilities and their parents are afforded the
3 procedural safeguards required by section 615.

4 “(6) EVALUATION.—Children with disabilities
5 are evaluated in accordance with subsections (a)
6 through (c) of section 614.

7 “(7) CONFIDENTIALITY.—Agencies in the State
8 comply with section 617(c) (relating to the confiden-
9 tiality of records and information).

10 “(8) TRANSITION FROM PART C TO PRESCHOOL
11 PROGRAMS.—Children participating in early-inter-
12 vention programs assisted under part C, and who
13 will participate in preschool programs assisted under
14 this part, experience a smooth transition to those
15 preschool programs. By the third birthday of such a
16 child, an individualized education program or, if con-
17 sistent with sections 614(d)(1)(B) and 636(d), an
18 individualized family service plan, has been devel-
19 oped and is being implemented for the child.

20 “(9) CHILDREN IN PRIVATE SCHOOLS.—

21 “(A) CHILDREN PLACED IN PRIVATE
22 SCHOOLS BY THEIR PARENTS.—To the extent
23 consistent with the number and location of chil-
24 dren with disabilities in the State who are en-
25 rolled by their parents in private elementary

1 and secondary schools, States and local edu-
2 cational agencies provide for the participation
3 of such children in the program assisted or car-
4 ried out under this part by providing for such
5 children special education and related services,
6 except if the Secretary has arranged for serv-
7 ices to such children under subsection (f).

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

10 “(i) IN GENERAL.—Children with dis-
11 abilities in private schools and facilities are
12 provided special education and related
13 services, in accordance with an individual-
14 ized education program, at no cost to their
15 parents, if they are placed in, or referred
16 to, such schools or facilities by the State or
17 a local educational agency in order to com-
18 ply with this part or with any other provi-
19 sion of law requiring the provision of spe-
20 cial education and related services to all
21 children with disabilities in the State.

22 “(ii) ADDITIONAL REQUIREMENTS.—
23 In all cases described in clause (i)—

24 “(I) children with disabilities are
25 placed in, or referred to, only those

1 private schools and facilities that the
2 State educational agency determines
3 meet standards that apply to State
4 and local educational agencies; and

5 “(II) children served in such pri-
6 vate schools or facilities retain access
7 to a free appropriate public education
8 in accordance with this part.

9 “(C) PAYMENT FOR EDUCATION OF CHIL-
10 DREN PLACED IN PRIVATE SCHOOLS WITHOUT
11 CONSENT OF OR REFERRAL BY THE PUBLIC
12 AGENCY.—

13 “(i) IN GENERAL.—If the parents of a
14 child with a disability that had previously
15 received special education and related serv-
16 ices under the authority of a public agency
17 have enrolled their child in a private ele-
18 mentary or secondary school without the
19 consent of or referral by the public agency,
20 as a result of mediation described in sec-
21 tion 615(d), or as a result of a decision
22 rendered under the procedural safeguards
23 of section 615, the public agency may be
24 required to reimburse the parents for the
25 cost of the enrollment, except that the cost

1 of the reimbursement may be reduced or
2 denied—

3 “(I) if, at least 10 school days
4 prior to the removal of the child from
5 the public school, the parents did not
6 give a written statement of their con-
7 cerns to the public agency and notice
8 that they intend to place their child in
9 a private school at public expense;

10 “(II) if, prior to the removal of
11 the child from the public school, the
12 parents did not make the child avail-
13 able for an initial assessment and
14 evaluation by the local educational
15 agency prior to enrollment in the pri-
16 vate school; or

17 “(III) at the discretion of the
18 judge.

19 “(ii) EXCEPTION.—Notwithstanding
20 the notice requirement in clause (i)(I), the
21 cost of the reimbursement may not be re-
22 duced or denied for failure to provide such
23 notice if—

24 “(I) the parent is illiterate or
25 cannot write in English;

1 “(II) compliance with clause
2 (i)(I) would likely result in physical or
3 serious emotional harm to the child;

4 “(III) the school prevented the
5 parent from providing such notice; or

6 “(IV) the parent had not received
7 notice, pursuant to section 615(d), of
8 the notice requirement in clause (i)(I).

9 “(10) STATE EDUCATIONAL AGENCY RESPON-
10 SIBLE FOR GENERAL SUPERVISION.—

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

13 “(i) the requirements of this part are
14 met; and

15 “(ii) all educational programs for chil-
16 dren with disabilities in the State, includ-
17 ing all such programs administered by any
18 other State or local agency—

19 “(I) are under the general super-
20 vision of individuals in the State who
21 are responsible for educational pro-
22 grams for children with disabilities;
23 and

24 “(II) meet the educational stand-
25 ards of the State educational agency.

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

7 “(11) METHODS OF ENSURING SERVICES.—

8 “(A) IN GENERAL.—If any public agency
9 other than an educational agency is responsible
10 for providing, or paying for, any of the services
11 that are necessary for the provision of a free
12 appropriate public education to children with
13 disabilities within the State (such as mental
14 health services, transition services, and health
15 services for children with special needs), there
16 is a mechanism that has been developed and is
17 being implemented for interagency coordination,
18 in order to ensure that all required services are
19 provided, which shall include—

20 “(i) an identification of, and a method
21 for defining, the financial responsibility of
22 each agency for providing a free appro-
23 priate public education to children with
24 disabilities; and

1 “(ii) procedures for resolving inter-
2 agency disputes, including procedures
3 under which local educational agencies may
4 obtain reimbursement from other agencies.

5 “(B) COMPLIANCE.—The requirements of
6 subparagraph (A) may be met through—

7 “(i) State law or regulation;

8 “(ii) signed agreements between re-
9 spective agency officials; or

10 “(iii) other appropriate methods.

11 “(12) PROCEDURAL REQUIREMENTS RELATING

12 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—

13 The State educational agency will not make a final
14 determination that a local educational agency is not
15 eligible for assistance under this part without first
16 affording that agency reasonable notice and an op-
17 portunity for a hearing.

18 “(13) PERSONNEL STANDARDS.—

19 “(A) IN GENERAL.—The State educational
20 agency has established and maintains standards
21 to ensure that personnel necessary to carry out
22 this part are appropriately and adequately pre-
23 pared and trained.

24 “(B) STANDARDS DESCRIBED.—Such
25 standards shall—

1 “(i) be consistent with any State-ap-
2 proved or State-recognized certification, li-
3 censing, registration, or other comparable
4 requirements that apply to the professional
5 discipline in which those personnel are pro-
6 viding special education or related services;

7 “(ii) to the extent the standards de-
8 scribed in subparagraph (A) are not based
9 on the highest requirements in the State
10 applicable to a specific profession or dis-
11 cipline, the State is taking steps to require
12 retraining or hiring of personnel that meet
13 appropriate professional requirements in
14 the State; and

15 “(iii) allow paraprofessionals and as-
16 sistants who are appropriately trained and
17 supervised, in accordance with State law,
18 regulations, or written policy, in meeting
19 the requirements of this part to be used to
20 assist in the provision of special education
21 and related services to children with dis-
22 abilities under this part.

23 “(C) EXCEPTION.—If the State determines
24 that, within a geographic area of the State
25 there is a shortage of an appropriate number

1 and type of personnel to provide the special
2 education and related services to children with
3 disabilities within such area, and the appro-
4 priate public agency has taken steps to recruit
5 and hire such personnel, the State may, subject
6 to public comment and review, temporarily
7 modify the standards of subparagraph (B) for
8 any public agencies affected.

9 “(14) PERFORMANCE GOALS AND INDICA-
10 TORS.—The State—

11 “(A) has established goals for the perform-
12 ance of children with disabilities in the State
13 that—

14 “(i) will promote the purposes of this
15 title, as stated in section 601(d); and

16 “(ii) are consistent, to the maximum
17 extent appropriate, with other goals and
18 standards established by the State;

19 “(B) has established performance indica-
20 tors the State will use to assess progress toward
21 achieving those goals that, at a minimum, ad-
22 dress the performance of children with disabil-
23 ities on assessments, drop-out rates, and grad-
24 uation rates;

1 “(C) will, every two years, report to the
2 Secretary and the public on the progress of the
3 State, and of children with disabilities in the
4 State, toward meeting the goals established
5 under subparagraph (A); and

6 “(D) based on its assessment of that
7 progress, will revise its State improvement plan
8 under part D as may be needed to improve its
9 performance, if the State receives assistance
10 under such part.

11 “(15) PARTICIPATION IN ASSESSMENTS.—

12 “(A) IN GENERAL.—Children with disabili-
13 ties are included in general State and district-
14 wide assessment programs, with appropriate ac-
15 commodations, where necessary. As appro-
16 priate, the State or local educational agency—

17 “(i) develops guidelines for the par-
18 ticipation of children with disabilities in al-
19 ternate assessments for those children who
20 cannot participate in State and district-
21 wide assessment programs; and

22 “(ii) develops and, beginning not later
23 than July 1, 1999, conducts those alter-
24 nate assessments.

1 “(B) REPORTS.—The State educational
2 agency makes available to the public, and re-
3 ports to the public with the same frequency and
4 in the same detail as it reports on the assess-
5 ment of nondisabled children, the following:

6 “(i) The number of children with dis-
7 abilities participating in regular assess-
8 ments.

9 “(ii) The number of those children
10 participating in alternate assessments.

11 “(iii) The performance of those chil-
12 dren on regular assessments (beginning
13 not later than July 1, 1997) and on alter-
14 nate assessments (not later than July 1,
15 1999), if doing so would be statistically
16 sound and would not result in the disclo-
17 sure of performance results identifiable to
18 individual children.

19 “(16) SUPPLEMENTATION OF STATE, LOCAL,
20 AND OTHER FEDERAL FUNDS.—

21 “(A) IN GENERAL.—The State ensures
22 that amounts provided under a grant to the
23 State under this part, except as provided in
24 subparagraph (B), will be used to supplement
25 State, local, and other Federal funds (including

1 funds not under the direct control of State or
2 local educational agencies) expended for special
3 education and related services, and not to sup-
4 plant those funds.

5 “(B) WAIVER.—The Secretary may waive,
6 in whole or in part, the requirements of sub-
7 paragraph (A) if the Secretary determines that
8 the State has provided clear evidence that all
9 children with disabilities in the State have avail-
10 able a free appropriate public education or that,
11 such a waiver would allow the State to improve
12 the delivery of special education and related
13 services to children with disabilities in the
14 State.

15 “(17) PUBLIC PARTICIPATION.—Prior to the
16 adoption of any policies and procedures needed to
17 comply with this section (including any amendments
18 to such policies and procedures), the State ensures
19 that there are public hearings, adequate notice of
20 the hearings, and an opportunity for comment avail-
21 able to the general public, including individuals with
22 disabilities and parents of children with disabilities.

23 “(18) STATE ADVISORY PANEL.—

24 “(A) IN GENERAL.—The State has estab-
25 lished and maintains an advisory panel for the

1 purpose of providing policy guidance with re-
2 spect to special education and related services
3 for children with disabilities in the State.

4 “(B) MEMBERSHIP.—Such advisory panel
5 shall consist of members appointed by the Gov-
6 ernor, or any other official authorized under
7 State law to make such appointments, that is
8 representative of the State population and that
9 is composed of individuals involved in, or con-
10 cerned with, the education of children with dis-
11 abilities, including—

12 “(i) parents of children with disabil-
13 ities;

14 “(ii) individuals with disabilities;

15 “(iii) teachers;

16 “(iv) representatives of institutions of
17 higher education that prepare special edu-
18 cation and related services personnel;

19 “(v) State and local education offi-
20 cials;

21 “(vi) administrators of programs for
22 children with disabilities;

23 “(vii) representatives of other State
24 agencies involved in the financing or deliv-

1 ery of related services to children with dis-
2 abilities;

3 “(viii) at least one representative of a
4 vocational, community, or business organi-
5 zation concerned with the provision of
6 transition services to children with disabil-
7 ities; and

8 “(ix) representatives from the State
9 juvenile and adult corrections agencies.

10 “(C) SPECIAL RULE.—A majority of the
11 members of the panel shall be individuals with
12 disabilities or parents of children with disabil-
13 ities.

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

15 “(i) advise the State educational agen-
16 cy of unmet needs within the State in the
17 education of children with disabilities;

18 “(ii) comment publicly on any rules or
19 regulations proposed by the State regard-
20 ing—

21 “(I) the education of children
22 with disabilities; and

23 “(II) the procedures for distribu-
24 tion of amounts received by the State
25 under a grant under this part;

1 “(iii) advise the State educational
2 agency in developing evaluations and re-
3 porting on data to the Secretary under sec-
4 tion 618;

5 “(iv) advise the State educational
6 agency in developing corrective action
7 plans to address findings identified in Fed-
8 eral monitoring reports under this part;
9 and

10 “(v) advise the State educational
11 agency in developing and implementing
12 policies relating to the coordination of serv-
13 ices for children with disabilities.

14 “(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
15 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
16 SERVICES.—If the State educational agency provides free
17 appropriate public education to children with disabilities,
18 or provides direct services to such children, such agency—

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

22 “(2) may use amounts that are otherwise avail-
23 able to such agency under this part to serve those
24 children without regard to section 613(a)(2)(A)(i)
25 (relating to excess costs).

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

2 “(1) IN GENERAL.—If a State has on file with
3 the Secretary policies and procedures that dem-
4 onstrate that such State meets any requirement of
5 subsection (a), including any policies and procedures
6 filed under this part as in effect before the date of
7 the enactment of the IDEA Improvement Act of
8 1996, the Secretary shall consider such State to
9 have met such requirement for purposes of receiving
10 a grant under this part.

11 “(2) MODIFICATIONS MADE BY STATE.—Sub-
12 ject to paragraph (3), an application submitted by a
13 State in accordance with this section shall remain in
14 effect until the State submits to the Secretary such
15 modifications as the State deems necessary. This
16 section shall apply to a modification to an applica-
17 tion to the same extent and in the same manner as
18 this section applies to the original plan.

19 “(3) MODIFICATIONS REQUIRED BY THE SEC-
20 RETARY.—The Secretary may require a State to
21 amend its application at any time as a result of the
22 Secretary’s compliance reviews under parts B and C.
23 The Secretary shall reduce or shall not provide any
24 further payments to the State educational agency

1 until the Secretary is satisfied that the State edu-
2 cational agency is complying with that requirement.

3 “(d) APPROVAL BY THE SECRETARY.—

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

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

12 “(A) with reasonable notice; and

13 “(B) with an opportunity for a hearing.

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

20 “(f) BY-PASS FOR CHILDREN IN PRIVATE
21 SCHOOLS.—

22 “(1) IN GENERAL.—If, on the date of enact-
23 ment of the Education of the Handicapped Act
24 Amendments of 1983, a State educational agency is
25 prohibited by law from providing for the participa-

1 tion in special programs of children with disabilities
2 enrolled in private elementary and secondary schools
3 as required by subsection (a)(9), the Secretary shall,
4 notwithstanding such provision of law, arrange for
5 the provision of services to such children through ar-
6 rangements which shall be subject to the require-
7 ments of such subsection.

8 “(2) PAYMENTS.—

9 “(A) DETERMINATION OF AMOUNTS.—If
10 the Secretary arranges for services pursuant to
11 this subsection, the Secretary, after consulta-
12 tion with the appropriate public and private
13 school officials, shall pay to the provider of such
14 services for a fiscal year an amount per child
15 that does not exceed the amount determined by
16 dividing—

17 “(i) the total amount received by the
18 State under this part for such fiscal year;
19 by

20 “(ii) the number of children with dis-
21 abilities served in the prior year, as re-
22 ported to the Secretary by the State under
23 section 618.

24 “(B) WITHHOLDING OF CERTAIN
25 AMOUNTS.—Pending final resolution of any in-

1 vestigation or complaint that could result in a
2 determination under this subsection, the Sec-
3 retary may withhold from the allocation of the
4 affected State educational agency the amount
5 the Secretary estimates would be necessary to
6 pay the cost of services described in subpara-
7 graph (A).

8 “(C) PERIOD OF PAYMENTS.—The period
9 under which payments are made under sub-
10 paragraph (A) shall continue until the Sec-
11 retary determines that there will no longer be
12 any failure or inability on the part of the State
13 educational agency to meet the requirements of
14 subsection (a)(9).

15 “(3) NOTICE AND HEARING.—

16 “(A) IN GENERAL.—The Secretary shall
17 not take any final action under this subsection
18 until the State educational agency affected by
19 such action has had an opportunity, for at least
20 45 days after receiving written notice thereof,
21 to submit written objections and to appear be-
22 fore the Secretary or the Secretary’s designee
23 to show cause why such action should not be
24 taken.

1 “(B) REVIEW OF ACTION.—If a State edu-
2 cational agency is dissatisfied with the Sec-
3 retary’s final action after a proceeding under
4 subparagraph (A), such agency may, not later
5 than 60 days after notice of such action, file
6 with the United States court of appeals for the
7 circuit in which such State is located a petition
8 for review of that action. A copy of the petition
9 shall be forthwith transmitted by the clerk of
10 the court to the Secretary. The Secretary there-
11 upon shall file in the court the record of the
12 proceedings on which the Secretary based the
13 Secretary’s action, as provided in section 2112
14 of title 28, United States Code.

15 “(C) REVIEW OF FINDINGS OF FACT.—The
16 findings of fact by the Secretary, if supported
17 by substantial evidence, shall be conclusive, but
18 the court, for good cause shown, may remand
19 the case to the Secretary to take further evi-
20 dence, and the Secretary may thereupon make
21 new or modified findings of fact and may mod-
22 ify the Secretary’s previous action, and shall file
23 in the court the record of the further proceed-
24 ings. Such new or modified findings of fact

1 shall likewise be conclusive if supported by sub-
2 stantial evidence.

3 “(D) JURISDICTION OF COURT OF AP-
4 PEALS; REVIEW BY UNITED STATES SUPREME
5 COURT.—Upon the filing of a petition under
6 subparagraph (B), the United States court of
7 appeals shall have jurisdiction to affirm the ac-
8 tion of the Secretary or to set it aside, in whole
9 or in part. The judgment of the court shall be
10 subject to review by the Supreme Court of the
11 United States upon certiorari or certification as
12 provided in section 1254 of title 28, United
13 States Code.

14 **“SEC. 613. LOCAL EDUCATIONAL AGENCY REQUIREMENTS.**

15 “(a) IN GENERAL.—A local educational agency shall
16 be eligible for assistance under this part for any fiscal year
17 if, except as provided in subsection (b), such agency sub-
18 mits to the State educational agency information that
19 demonstrates to the satisfaction of the State educational
20 agency the following:

21 “(1) CONSISTENCY WITH STATE POLICIES.—
22 The local educational agency, in providing for the
23 education of children with disabilities within its ju-
24 risdiction, has in effect policies, procedures, and pro-

1 grams that are consistent with the State policies and
2 procedures established under section 612.

3 “(2) USE OF AMOUNTS.—

4 “(A) IN GENERAL.—Amounts provided to
5 the local educational agency under this part—

6 “(i) shall be used only to pay the ex-
7 cess costs of providing special education
8 and related services to children with dis-
9 abilities;

10 “(ii) shall be used to supplement
11 State, local, and other Federal funds and
12 not to supplant such funds;

13 “(iii) except as provided in subpara-
14 graph (B), may not be used to reduce the
15 level of expenditures for the education of
16 children with disabilities made by the local
17 educational agency from State or local
18 funds below the level of those expenditures
19 for the preceding fiscal year;

20 “(iv) may be used, notwithstanding
21 clause (i) or any other provision of this
22 part, for the costs of special education and
23 related services provided in a regular class
24 to a child with a disability in accordance
25 with the child’s individualized education

1 program, even if one or more nondisabled
2 children benefit from those services; and

3 “(v) may be used, in accordance with
4 subsection (f) and notwithstanding clause
5 (i) or any other provision of this part, to
6 develop and implement a coordinated serv-
7 ices system.

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

12 “(i) the departure, by retirement or
13 otherwise, of special education personnel;

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

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

23 “(I) has left the jurisdiction of
24 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 “(3) INFORMATION FOR STATE EDUCATIONAL
12 AGENCY.—The local educational agency shall provide
13 the State educational agency with information nec-
14 essary to enable the State educational agency to
15 carry out its duties under this part, including, with
16 respect to paragraphs (14) and (15) of section
17 612(a), information relating to the performance of
18 children with disabilities participating in programs
19 carried out under this part.

20 “(4) PUBLIC INFORMATION.—The local edu-
21 cational agency shall make available to parents of
22 children with disabilities and to the general public
23 all documents relating to the eligibility of such agen-
24 cy under this part.

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

1 “(1) IN GENERAL.—If a local educational agen-
2 cy or State agency has on file with the State edu-
3 cational agency policies and procedures that dem-
4 onstrate that such local educational agency, or such
5 State agency, as the case may be, meets any require-
6 ment of subsection (a), including any policies and
7 procedures filed under this part as in effect before
8 the date of the enactment of IDEA Improvement
9 Act of 1996, the State educational agency shall con-
10 sider such local educational agency or State agency,
11 as the case may be, to have met such requirement
12 for purposes of receiving assistance under this part.

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

20 “(3) MODIFICATIONS REQUIRED BY STATE
21 EDUCATIONAL AGENCY.—The State educational
22 agency may require a local educational agency to
23 amend its application at anytime as a result of the
24 compliance reviews of the State educational agency
25 under parts B and C. This paragraph shall apply to

1 a modification to an application to the same extent
2 and in the same manner as this section applies to
3 the original plan.

4 “(c) NOTIFICATION OF LOCAL EDUCATIONAL AGEN-
5 CY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the
6 State educational agency determines that a local edu-
7 cational agency or State agency is not eligible under this
8 section, the State educational agency shall notify such
9 local educational agency or State agency, as the case may
10 be, of that determination and shall provide such local edu-
11 cational agency or State agency with reasonable notice and
12 an opportunity for a hearing.

13 “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

14 “(1) IN GENERAL.—If the State educational
15 agency, after reasonable notice and an opportunity
16 for a hearing, finds that a local educational agency
17 or State agency that has been determined to be eligi-
18 ble under this section is failing to comply with any
19 requirement described in subsection (a), the State
20 educational agency shall reduce or shall not provide
21 any further payments to the local educational agency
22 or State agency until the State educational agency
23 is satisfied that the local educational agency or State
24 agency, as the case may be, is complying with that
25 requirement.

1 “(2) ADDITIONAL REQUIREMENT.—Any State
2 educational agency, State agency, or local edu-
3 cational agency in receipt of a notice pursuant to the
4 notice described in paragraph (1) shall, by means of
5 public notice, take such measures as may be nec-
6 essary to bring the pendency of an action pursuant
7 to this subsection to the attention of the public with-
8 in the jurisdiction of such agency.

9 “(3) CONSIDERATION.—In carrying out its re-
10 sponsibilities under paragraph (1), the State edu-
11 cational agency shall consider any decision made in
12 a hearing held under section 615 that is adverse to
13 the local educational agency or State agency involved
14 in that decision.

15 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

16 “(1) IN GENERAL.—A State educational agency
17 may require a local educational agency to establish
18 its eligibility jointly with another local educational
19 agency if the State educational agency determines
20 that the local educational agency would be ineligible
21 under this section because the local educational
22 agency would not be able to establish and maintain
23 programs of sufficient size and scope to effectively
24 meet the needs of children with disabilities.

1 “(2) AMOUNT OF PAYMENTS.—If a State edu-
2 cational agency requires the joint establishment of
3 eligibility under paragraph (1), the total amount of
4 funds made available to the affected local edu-
5 cational agencies shall be equal to the sum of the
6 payments that each such local educational agency
7 would have received under section 611(c) if such
8 agencies were eligible for such payments.

9 “(3) REQUIREMENTS.—Local educational agen-
10 cies that establish joint eligibility under this sub-
11 section shall—

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

15 “(B) be jointly responsible for implement-
16 ing programs that receive assistance under this
17 part.

18 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
19 ICE AGENCIES.—

20 “(A) IN GENERAL.—If an educational serv-
21 ice agency is required by State law to carry out
22 programs under this part, the joint responsibil-
23 ities given to local educational agencies under
24 this subsection shall—

1 “(i) not apply to the administration
2 and disbursement of any payments re-
3 ceived by that educational service agency;
4 and

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

7 “(B) ADDITIONAL REQUIREMENT.—Not-
8 withstanding any other provision of this sub-
9 section, an educational service agency shall pro-
10 vide for the education of children with disabil-
11 ities in the least restrictive environment, as re-
12 quired by section 612(a)(4) and subsection
13 (a)(1)(E).

14 “(f) COORDINATED SERVICES SYSTEM.—

15 “(1) IN GENERAL.—A local educational agency
16 may not use more than 5 percent of the amount
17 such agency receives under this part for any fiscal
18 year, in combination with other amounts (which
19 shall include amounts other than education funds),
20 to develop and implement a coordinated services sys-
21 tem designed to improve results for children and
22 families, including children with disabilities and their
23 families.

24 “(2) ACTIVITIES.—In implementing a coordi-
25 nated services system under this subsection, a local

1 educational agency may carry out activities which in-
2 clude—

3 “(A) improving the effectiveness and effi-
4 ciency of service delivery, including developing
5 strategies that promote accountability for re-
6 sults;

7 “(B) service coordination and case man-
8 agement that facilitates the linkage of individ-
9 ualized education programs under this part and
10 individualized family service plans under part C
11 with individualized service plans under multiple
12 Federal and State programs, such as title I of
13 the Rehabilitation Act of 1973 (vocational reha-
14 bilitation), title XIX of the Social Security Act
15 (Medicaid), and title XVI of the Social Security
16 Act (supplemental security income);

17 “(C) developing and implementing inter-
18 agency financing strategies for the provision of
19 education, health, mental health, and social
20 services, including transition services and relat-
21 ed services under this title; and

22 “(D) interagency personnel development
23 for individuals working on coordinated services.

24 “(3) COORDINATION WITH CERTAIN PROJECTS
25 UNDER ELEMENTARY AND SECONDARY EDUCATION

1 ACT OF 1965.—If a local educational agency is carry-
2 ing out a coordinated services project under title XI
3 of the Elementary and Secondary Education Act of
4 1965 and a coordinated services project under this
5 part in the same schools, such agency shall use
6 amounts under this subsection in accordance with
7 the requirements of that title.

8 “(g) MODIFICATION OF REQUIREMENTS UNDER
9 THIS PART TO ACHIEVE INNOVATIVE DELIVERY OF
10 SERVICES.—

11 “(1) AUTHORITY.—The Secretary may modify
12 any requirement of this part for a local educational
13 agency, or a group of local educational agencies, des-
14 ignated under paragraph (2) for a period of not less
15 than two but not more than five years in order to
16 permit the Secretary to identify and evaluate sys-
17 temic reforms to improve educational results for
18 children with disabilities in accordance with the pur-
19 poses described in paragraph (3).

20 “(2) DESIGNATION OF LOCAL EDUCATIONAL
21 AGENCIES.—Beginning one year after the date of
22 the enactment of the IDEA Improvement Act of
23 1996, the Secretary shall, to the extent practicable,
24 designate 10 local educational agencies or groups of

1 local educational agencies that meet the require-
2 ments of paragraph (4).

3 “(3) PURPOSES.—The purposes of a modifica-
4 tion of any requirement of this part are to provide
5 adequate and reliable data to permit the Secretary—

6 “(A) to identify local educational agencies
7 that have implemented reforms that yield suc-
8 cessful results for children with disabilities;

9 “(B) to identify success in—

10 “(i) parental participation in, and pa-
11 rental satisfaction with, the development
12 and implementation of individualized edu-
13 cation programs;

14 “(ii) systems of eligibility that focus
15 on functional abilities and addressing func-
16 tional limitations with reduced emphasis on
17 the use of labels in the early years of a
18 child’s school career;

19 “(iii) inclusion of students with dis-
20 abilities in school district-wide and state-
21 wide assessments;

22 “(iv) improvement of academic results
23 for children with disabilities; and

24 “(v) transition programs that prepare
25 students who have attained the age 14 for

1 postsecondary education or vocational em-
2 ployment;

3 “(C) to provide direct technical assistance
4 to local educational agencies that have dem-
5 onstrated success in one or more of the areas
6 described in subparagraph (B) to implement
7 additional reforms; and

8 “(D) to document the implementation
9 steps taken by local educational agencies receiv-
10 ing a modification of a requirement under this
11 subsection to create models of reform that are
12 systematically replicable by other school dis-
13 tricts.

14 “(4) ELIGIBLE EDUCATIONAL AGENCIES.—A
15 local educational agency or group of local edu-
16 cational agencies may be designated under para-
17 graph (2) to receive a modification of any require-
18 ment under this part if the agency or agencies—

19 “(A) develops an application for such a
20 modification—

21 “(i) with parent groups from the geo-
22 graphic area served by the agency or agen-
23 cies and with individuals with disabilities;
24 and

1 “(ii) that describes how the modifica-
2 tion will assist the Secretary in achieving
3 the purposes described in paragraph (3);
4 and

5 “(B) demonstrates to the satisfaction of
6 the Secretary that the agency has or agencies
7 have achieved a significant measure of success
8 in at least one of the areas identified in para-
9 graph (3)(B).

10 “(5) DEVELOPMENT OF TESTING INSTRU-
11 MENTS.—The Secretary shall, in consultation with
12 the local educational agency or group of local edu-
13 cational agencies, establish, or enter into a contract
14 with an appropriate research organization for the
15 purpose of establishing (in consultation with the
16 Secretary and the local educational agency or group
17 of local educational agencies), testing instruments to
18 objectively verify and evaluate the effect of modifica-
19 tions of requirements of this part for the local edu-
20 cational agency or group of local educational agen-
21 cies pursuant to this subsection.

22 “(6) ASSESSMENT OF MODIFICATIONS.—

23 “(A) INTERIM ASSESSMENTS.—At regular
24 intervals during the period in which a local edu-
25 cational agency is or group of local educational

1 agencies are receiving a modification of a re-
2 quirement of this part pursuant to this sub-
3 section, the Secretary or the research organiza-
4 tion that devised the testing instrument under
5 paragraph (5), as the case may be, shall use the
6 instrument to assess such modification.

7 “(B) FINAL ASSESSMENT.—At the conclu-
8 sion of the modification period under this sub-
9 section, a final assessment of the modification
10 shall be made by the Secretary or the research
11 organization that devised the testing instrument
12 under paragraph (5), as the case may be, and
13 the results of such assessment shall be made
14 available to the public by the Secretary.

15 “(7) MODIFICATION OF STATE REQUIRE-
16 MENTS.—In the case of a State or States that con-
17 tain a local educational agency or group of local edu-
18 cational agencies for which a modification of any re-
19 quirement under this part has been granted by the
20 Secretary, the Secretary shall, upon application by
21 the State or States, modify any requirement of this
22 part for the State or States, but only—

23 “(A) with respect to the implementation of
24 a requirement of the State or States in the geo-
25 graphic area served by such local educational

1 agency or group of local educational agencies;
2 and

3 “(B) if the Secretary determines that the
4 modification is necessary and appropriate to
5 achieve the purposes of this subsection.

6 “(8) TERMINATION OF MODIFICATION.—If, dur-
7 ing the period in which a modification under this
8 subsection is approved with respect to a local edu-
9 cational agency or group of local educational agen-
10 cies or a State or States, the Secretary determines
11 that the modification is not serving the best inter-
12 ests of children with disabilities in the geographic
13 area served, the Secretary may terminate the modi-
14 fication.

15 “(h) DIRECT SERVICES BY THE STATE EDU-
16 CATIONAL AGENCY.—

17 “(1) IN GENERAL.—A State educational agency
18 shall use the payments that would otherwise have
19 been available to a local educational agency or to a
20 State agency to provide special education and relat-
21 ed services directly to children with disabilities resid-
22 ing in the area served by that local agency, or for
23 whom that State agency is responsible, if the State
24 educational agency determines that the local edu-
25 cation agency or State agency, as the case may be—

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

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

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

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

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

23 “(i) STATE AGENCY ELIGIBILITY.—Any State agency
24 that desires to receive a subgrant for any fiscal year under

1 section 611(c) shall demonstrate to the satisfaction of the
2 State educational agency that—

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

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

12 **“SEC. 614. EVALUATIONS, REEVALUATIONS, INDIVIDUAL-**
13 **IZED EDUCATION PROGRAMS, AND EDU-**
14 **CATIONAL PLACEMENTS.**

15 “(a) EVALUATIONS AND REEVALUATIONS.—

16 “(1) INITIAL EVALUATIONS.—

17 “(A) IN GENERAL.—A State educational
18 agency, other State agency, or local educational
19 agency shall conduct an initial evaluation, in ac-
20 cordance with this paragraph and subsection
21 (b), before the initial provision of special edu-
22 cation and related services to a child with a dis-
23 ability under this part.

24 “(B) PROCEDURES.—Such initial evalua-
25 tion shall consist of procedures—

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

4 “(ii) to determine the educational
5 needs of such child.

6 “(C) PARENTAL CONSENT.—

7 “(i) IN GENERAL.—The agency pro-
8 posing to conduct an initial evaluation to
9 determine if the child qualifies as a child
10 with a disability as defined in section
11 602(3)(A) or 602(3)(B) shall obtain an in-
12 formed consent from the parent of such
13 child before the evaluation is conducted.
14 Parental consent for evaluation shall not
15 be construed as consent for placement for
16 receipt of special education and related
17 services.

18 “(ii) REFUSAL.—If the parents of
19 such child refuse consent for the evalua-
20 tion, the agency may continue to pursue an
21 evaluation by utilizing the mediation and
22 due process procedures under section
23 615(e).

1 “(2) REEVALUATIONS.—A local educational
2 agency shall ensure that a reevaluation of each child
3 with a disability is conducted—

4 “(A) if conditions warrant a reevaluation
5 or if the child’s parent or teacher requests a re-
6 evaluation, but at least once every 3 years; and

7 “(B) in accordance with subsections (b)
8 and (c).

9 “(b) EVALUATION PROCEDURES.—

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

16 “(2) CONDUCT OF EVALUATION.—In conduct-
17 ing the evaluation, the local educational agency
18 shall—

19 “(A) use a variety of assessment tools and
20 strategies to gather relevant functional and de-
21 velopmental information, including information
22 provided by the parent, that may assist in de-
23 termining whether the child is a child with a
24 disability and the content of the child’s individ-
25 ualized education program, including informa-

1 tion related to enabling the child to participate
2 and achieve in the general curriculum or, for
3 preschool children, to participate in devel-
4 opmentally appropriate activities; and

5 “(B) not use any single procedure as the
6 sole criterion for determining whether a child is
7 a child with a disability or determining an ap-
8 propriate educational program for the child.

9 “(3) ADDITIONAL REQUIREMENTS.—Each local
10 educational agency shall ensure that—

11 “(A) tests and other evaluation materials
12 used to assess a child under this section—

13 “(i) are selected and administered so
14 as not to be discriminatory on a racial or
15 cultural basis; and

16 “(ii) are provided and administered in
17 the child’s native language or other mode
18 of communication, unless it is clearly not
19 feasible to do so; and

20 “(B) any standardized tests that are given
21 to the child—

22 “(i) have been validated for the spe-
23 cific purpose for which they are used;

24 “(ii) are administered by trained per-
25 sonnel; and

1 “(iii) are administered in accordance
2 with any instructions provided by the pro-
3 ducer of such tests.

4 “(4) DETERMINATION OF ELIGIBILITY.—Upon
5 completion of administration of tests and other eval-
6 uation materials—

7 “(A) an individualized education program
8 team will be convened to make the determina-
9 tion if the child is a child with a disability as
10 defined in section 602(3) or section 602(3)(B);
11 and

12 “(B) a copy of the evaluation report and
13 the documentation of determination of eligibility
14 will be given to the parent.

15 “(c) REEVALUATION PROCEDURES.—

16 “(1) IN GENERAL.—As part of any reevaluation
17 to assess a child under this section, the individual-
18 ized education program team shall—

19 “(A) review existing evaluation data on the
20 child, including current classroom-based assess-
21 ments and teacher and related services provid-
22 ers observation; and

23 “(B) on the basis of that review, the pro-
24 fessional judgment of the IEP Team, and input

1 from the child’s parents, identify what addi-
2 tional data, if any, are needed to determine—

3 “(i) whether the child continues to
4 have an impairment, as described in sec-
5 tion 602(3)(A)(i) or section 602(3)(B);

6 “(ii) the child’s present levels of per-
7 formance and educational needs; and

8 “(iii)(I) whether the child continues to
9 need special education and related services;
10 and

11 “(II) if so, any additions or modifica-
12 tions to the special education and related
13 services to enable the child to meet the ob-
14 jectives set out in the individualized edu-
15 cation program of the child and to partici-
16 pate, as appropriate, in the general cur-
17 riculum.

18 “(2) TESTS AND OTHER EVALUATION MATE-
19 RIALS.—The local educational agency shall admin-
20 ister such tests and other evaluation materials as
21 may be needed to produce the data identified by the
22 IEP Team under paragraph (1)(B).

23 “(3) REQUIREMENTS IF ADDITIONAL DATA NOT
24 NEEDED.—If the IEP Team determines that no ad-
25 ditional data are needed to determine whether the

1 child continues to be a child with a disability, the
2 local educational agency—

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

4 “(i) that determination and the rea-
5 sons for it; and

6 “(ii) the right of such parents to re-
7 quest an assessment to determine whether
8 the child continues to be a child with a dis-
9 ability; and

10 “(B) shall not be required to conduct such an
11 assessment unless requested to by the child’s par-
12 ents.

13 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

14 “(1) REQUIREMENT THAT PROGRAM BE IN EF-
15 FECT.—

16 “(A) IN GENERAL.—At the beginning of
17 each school year, each local educational agency,
18 or State educational agency, as the case may
19 be, shall have in effect, for each child with a
20 disability in its jurisdiction, an individualized
21 education program, as defined in section
22 602(11).

23 “(B) PROGRAM FOR CHILD AGED 3 TO 5.—

24 In the case of a child with a disability aged 3
25 to 5, inclusive, an individualized family service

1 plan that contains the material described in sec-
2 tion 636, and that is developed in accordance
3 with this section, may serve as the IEP of the
4 child if using that plan as the IEP is—

5 “(i) consistent with State policy; and

6 “(ii) agreed to by the agency and the
7 child’s parents.

8 “(2) DEVELOPMENT OF IEP.—

9 “(A) IN GENERAL.—An individualized edu-
10 cation program team shall develop the IEP de-
11 scribed in paragraph (1). In developing such
12 IEP, the IEP Team, subject to subparagraph
13 (B), shall—

14 “(i) consider the child’s strengths, the
15 duration of an early intervention program,
16 and the parents’ concerns for enhancing
17 their child’s education;

18 “(ii) consider the results of the initial
19 evaluation or most recent reevaluation;

20 “(iii) in the case of a child whose be-
21 havior impedes his or her learning or that
22 of others, consider strategies, including be-
23 havioral management plans, to address
24 that behavior;

1 “(iv) in the case of a child with lim-
2 ited English proficiency, consider the lan-
3 guage needs of the child as such needs re-
4 late to the child’s IEP;

5 “(v) in the case of a child who is blind
6 or visually impaired, provide for instruction
7 in braille and the use of braille unless all
8 members of the IEP Team concur that,
9 after an evaluation of the child’s reading
10 and writing skills, needs, and appropriate
11 reading and writing media (including an
12 evaluation of the child’s future needs for
13 instruction in braille or the use of braille),
14 instruction in braille or the use of braille
15 is not appropriate for the child;

16 “(vi) consider the communication
17 needs of the child; and

18 “(vii) consider whether the child re-
19 quires assistive technology services or de-
20 vices.

21 “(B) REQUIREMENT WITH RESPECT TO
22 REGULAR EDUCATION TEACHER.—The regular
23 education teacher of the child, as a member of
24 the IEP Team, shall, to the extent appropriate,

1 participate in the development of the IEP of
2 the child.

3 “(3) REVIEW AND REVISION OF IEP.—

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

7 “(i) reviews each IEP at least once a
8 year to determine whether the annual ob-
9 jectives for the child are being achieved;
10 and

11 “(ii) revises the IEP to address—

12 “(I) any lack of expected
13 progress toward the annual objectives
14 and in the general curriculum, where
15 appropriate;

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

18 “(III) information about the
19 child provided to the parents, as de-
20 scribed in section 602(11)(F)(ii); or

21 “(IV) the child’s anticipated
22 needs as otherwise appropriate.

23 “(B) REQUIREMENT WITH RESPECT TO
24 REGULAR EDUCATION TEACHER.—The regular
25 education teacher of the child, as a member of

1 the IEP Team, shall, to the extent appropriate,
2 participate in the review and revision of the
3 IEP of the child.

4 “(4) FAILURE TO MEET TRANSITION OBJEC-
5 TIVES.—If a participating agency, other than the
6 local educational agency, fails to provide the transi-
7 tion services described in the IEP in accordance with
8 section 602(11)(F)(ii), the local educational agency
9 shall reconvene the IEP Team to identify alternative
10 strategies to meet the transition objectives for the
11 child set out in that program.

12 “(e) EDUCATIONAL PLACEMENTS.—Each local edu-
13 cational agency or State educational agency shall ensure
14 that the parents of each child with a disability are mem-
15 bers of any group that makes decisions on the educational
16 placement of their child.

17 **“SEC. 615. PROCEDURAL SAFEGUARDS.**

18 “(a) ESTABLISHMENT OF PROCEDURES.—Any State
19 educational agency or local educational agency that re-
20 ceives assistance under this part shall establish and main-
21 tain procedures in accordance with this section to assure
22 that children with disabilities and their parents are guar-
23 anteed procedural safeguards with respect to the provision
24 of free appropriate public education by such agencies.

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

3 “(1) an opportunity for the parents of a child
4 with a disability to examine all records relating to
5 such child and to participate in meetings with re-
6 spect to the identification, evaluation, and edu-
7 cational placement of the child, and the provision of
8 a free appropriate public education to such child,
9 and to obtain an independent educational evaluation
10 of the child;

11 “(2) procedures to protect the rights of the
12 child whenever the parents of the child are not
13 known, the agency cannot, after reasonable efforts,
14 locate the parents, or the child is a ward of the
15 State, including the assignment of an individual
16 (who shall not be an employee of the State edu-
17 cational agency, the local educational agency, or any
18 other agency that is involved in the education or
19 care of the child) to act as a surrogate for the par-
20 ents;

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

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

24 “(B) refuses to initiate or change;

1 the identification, evaluation, or educational place-
2 ment of the child, in accordance with subsection (c),
3 or the provision of a free appropriate public edu-
4 cation to the child, except that a minor modification
5 of instructional strategies to carry out the individ-
6 ualized education program of the child shall not be
7 considered to be a change requiring a notice to the
8 parents under this section;

9 “(4) procedures designed to assure that the no-
10 tice required by paragraph (3) is in the native lan-
11 guage of the parents, unless it clearly is not feasible
12 to do so;

13 “(5) an opportunity for mediation in accordance
14 with subsection (e); and

15 “(6) an opportunity to present complaints with
16 respect to any matter relating to the identification,
17 evaluation, or educational placement of the child, or
18 the provision of a free appropriate public education
19 to such child.

20 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—The
21 notice required by subsection (b)(3) shall include—

22 “(1) a description of the action proposed
23 or refused by the agency;

24 “(2) an explanation of why the agency pro-
25 poses or refuses to take the action;

1 “(3) a description of any other options
2 that the agency considered and the reasons why
3 those options were rejected;

4 “(4) a description of each evaluation proce-
5 dure, test, record, or report the agency used as
6 a basis for the proposed or refused action;

7 “(5) a description of any other factors that
8 are relevant to the agency’s proposal or refusal;
9 and

10 “(6) a statement that the parents of a
11 child with a disability have protection under the
12 procedural safeguards of this title and, if this
13 notice is not an initial referral for evaluation,
14 the means by which a copy of a description of
15 the procedural safeguards can be obtained.

16 “(d) PROCEDURAL SAFEGUARDS NOTICE.—

17 “(1) IN GENERAL.—A copy of the procedural
18 safeguards available to the parents of a child with
19 a disability shall be given to the parents, at a mini-
20 mum—

21 “(A) upon initial referral for evaluation;

22 “(B) at each individualized education pro-
23 gram meeting; and

24 “(C) upon registration of a complaint
25 under subsection (b)(6).

1 “(2) CONTENTS.—The procedural safeguards
2 notice shall include a full explanation of the proce-
3 dural safeguards written in the native language of
4 the parents, unless not feasible to do so, and written
5 in an easily understandable manner, available under
6 this section and under regulations promulgated by
7 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;

22 “(J) due process hearings, including re-
23 quirements for disclosure of evaluation results
24 and recommendations;

1 “(K) State-level appeals (if applicable in
2 that State);

3 “(L) civil actions; and

4 “(M) attorney’s fees.

5 “(e) MEDIATION.—

6 “(1) IN GENERAL.—Any State educational
7 agency or local educational agency that receives as-
8 sistance under this part shall ensure that procedures
9 are established and implemented to allow parties to
10 disputes involving the provision of free appropriate
11 public education to children with disabilities by any
12 such State educational agency or local educational
13 agency to resolve such disputes through a mediation
14 process.

15 “(2) REQUIREMENTS.—Such procedures shall
16 meet the following requirements:

17 “(A) The procedures shall ensure that the
18 mediation process—

19 “(i) is voluntary on the part of the
20 parents and may be waived by the parents
21 at any time during such process; and

22 “(ii) is conducted by a qualified and
23 impartial mediator who is trained in effec-
24 tive mediation techniques.

1 “(B) The State shall maintain a list of in-
2 dividuals who are qualified mediators and
3 knowledgeable in laws and regulations relating
4 to the provision of special education and related
5 services.

6 “(C) The State shall bear the cost of the
7 mediator in the mediation process.

8 “(D) Each session in the mediation process
9 shall be scheduled in a timely manner and shall
10 be held in a location that is convenient to the
11 parties to the dispute.

12 “(E) An agreement reached by the parties
13 to the dispute in the mediation process shall be
14 set forth in a written mediation agreement.

15 “(F) Discussions that occur during the
16 mediation process shall be confidential and may
17 not be used as evidence in any subsequent due
18 process hearings or civil proceedings, and the
19 parties to the mediation process may be re-
20 quired to sign a confidentiality pledge prior to
21 the commencement of such process.

22 “(G) Attorneys shall not attend or other-
23 wise participate in the mediation process.

1 “(H) Proceedings of the mediation process
2 shall not be considered administrative proceed-
3 ings.

4 “(I) Attorney’s fees and related costs may
5 not be made to any individual in connection
6 with the mediation process.

7 “(J) Parents who are party to the medi-
8 ation process may be accompanied and advised
9 by a non-attorney representative.

10 “(f) IMPARTIAL DUE PROCESS HEARING.—

11 “(1) IN GENERAL.—Whenever a complaint has
12 been received under subsection (b)(6), the parents
13 involved in such complaint shall have an opportunity
14 for an impartial due process hearing which shall be
15 conducted by the State educational agency or by the
16 local educational agency, as determined by State law
17 or by the State educational agency.

18 “(2) DISCLOSURE OF EVALUATIONS AND REC-
19 OMMENDATIONS.—

20 “(A) IN GENERAL.—At least 15 school
21 days prior to a hearing conducted pursuant to
22 paragraph (1), each party shall disclose to all
23 other parties all evaluations and recommenda-
24 tions based on the offering party’s evaluations
25 which the party intends to use at the hearing.

1 “(B) PROHIBITION.—Any party which fails
2 to meet the requirement of subparagraph (A)
3 shall be barred from introducing such evalua-
4 tions and recommendations at such hearing.

5 “(3) LIMITATION ON CONDUCT OF HEARING.—
6 A hearing conducted pursuant to paragraph (1) may
7 not be conducted by an employee of the State edu-
8 cational agency or the local educational agency in-
9 volved in the education or care of the child.

10 “(g) APPEAL.—If the hearing required by subsection
11 (f) is conducted by a local educational agency, any party
12 aggrieved by the findings and decision rendered in such
13 a hearing may appeal such findings and decision to the
14 State educational agency. Such agency shall conduct an
15 impartial review of such decision. The officer conducting
16 such review shall make an independent decision upon com-
17 pletion of such review.

18 “(h) SAFEGUARDS.—Any party to a hearing con-
19 ducted pursuant to subsections (f) or an appeal conducted
20 pursuant to subsection (g) shall be accorded—

21 “(1) the right to be accompanied and advised
22 by counsel and by individuals with special knowledge
23 or training with respect to the problems of children
24 with disabilities;

1 “(2) the right to present evidence and confront,
2 cross-examine, and compel the attendance of wit-
3 nesses;

4 “(3) the right to a written, or, at the option of
5 the parents, electronic verbatim record of such hear-
6 ing; and

7 “(4) the right to written, or, at the option of
8 the parents, electronic findings of fact and decisions
9 (which findings and decisions shall be made available
10 to the public consistent with the requirements of sec-
11 tion 617(c) (relating to the confidentiality of data,
12 information, and records) and shall also be transmit-
13 ted to the advisory panel established pursuant to
14 section 612(a)(18)).

15 “(i) ADMINISTRATIVE PROCEDURES.—

16 “(1) IN GENERAL.—A decision made in a hear-
17 ing conducted pursuant to subsection (f) shall be
18 final, except that any party involved in such hearing
19 may appeal such decision under the provisions of
20 subsection (g) and paragraph (2) of this subsection.

21 “(2) RIGHT TO BRING CIVIL ACTION.—

22 “(A) IN GENERAL.—Any party aggrieved
23 by the findings and decision made under sub-
24 section (f) who does not have the right to an
25 appeal under subsection (g), and any party ag-

1 grieved by the findings and decision under this
2 subsection, shall have the right to bring a civil
3 action with respect to the complaint presented
4 pursuant to this section, which action may be
5 brought in any State court of competent juris-
6 diction or in a district court of the United
7 States without regard to the amount in con-
8 troversy.

9 “(B) ADDITIONAL REQUIREMENTS.—In
10 any action brought under this paragraph the
11 court—

12 “(i) shall receive the records of the
13 administrative proceedings;

14 “(ii) hear additional evidence at the
15 request of a party; and

16 “(iii) basing its decision on the pre-
17 ponderance of the evidence, shall grant
18 such relief as the court determines is ap-
19 propriate.

20 “(3) JURISDICTION OF DISTRICT COURTS; AT-
21 TORNEYS’ FEES.—

22 “(A) IN GENERAL.—The district courts of
23 the United States shall have jurisdiction of ac-
24 tions brought under this subsection without re-
25 gard to the amount in controversy.

1 “(B) AWARD OF ATTORNEYS’ FEES.—In
2 any action or proceeding brought under this
3 subsection, the court, in its discretion, may
4 award reasonable attorneys’ fees as part of the
5 costs to the parents of a child or youth with a
6 disability who is the prevailing party.

7 “(C) DETERMINATION OF AMOUNT OF AT-
8 TORNEYS’ FEES.—Fees awarded under this
9 paragraph shall be based on rates prevailing in
10 the community in which the action or proceed-
11 ing arose for the kind and quality of services
12 furnished. No bonus or multiplier may be used
13 in calculating the fees awarded under this sub-
14 section.

15 “(D) PROHIBITION OF ATTORNEYS’ FEES
16 AND RELATED COSTS FOR CERTAIN SERV-
17 ICES.—Attorneys’ fees may not be awarded and
18 related costs may not be reimbursed in any ac-
19 tion or proceeding under this subsection for
20 services performed subsequent to the time of a
21 written offer of settlement to a parent if—

22 “(i) the offer is made within the time
23 prescribed by Rule 68 of the Federal Rules
24 of Civil Procedure or, in the case of an ad-

1 ministrative proceeding, at any time more
2 than ten days before the proceeding begins;

3 “(ii) the offer is not accepted within
4 10 days; and

5 “(iii) the court or administrative offi-
6 cer finds that the relief finally obtained by
7 the parents is not more favorable to the
8 parents than the offer of settlement.

9 “(E) EXCEPTION TO PROHIBITION ON AT-
10 TORNEYS’ FEES AND RELATED COSTS.—Not-
11 withstanding subparagraph (D), an award of
12 attorneys’ fees and related costs may be made
13 to a parent who is the prevailing party and who
14 was substantially justified in rejecting the set-
15 tlement offer.

16 “(F) REDUCTION IN AMOUNT OF ATTOR-
17 NEYS’ FEES.—Except as provided in subpara-
18 graph (G), whenever the court finds that—

19 “(i) the parent, during the course of
20 the action or proceeding, unreasonably pro-
21 tracted the final resolution of the con-
22 troversy;

23 “(ii) the amount of the attorneys’ fees
24 otherwise authorized to be awarded unrea-
25 sonably exceeds the hourly rate prevailing

1 in the community for similar services by
2 attorneys of reasonably comparable skill
3 and experience;

4 “(iii) the time spent and legal services
5 furnished were excessive considering the
6 nature of the action or proceeding;

7 “(iv) the parent did not provide a
8 written statement of concerns to the school
9 district; or

10 “(v) the amount of attorneys’ fees re-
11 quested is not in proportion to the number
12 of hours expended on the issues involved or
13 on the issues on which the parents pre-
14 vailed;

15 the court shall reduce, accordingly, the amount
16 of the attorneys’ fees awarded under this sub-
17 section.

18 “(G) EXCEPTION TO REDUCTION IN
19 AMOUNT OF ATTORNEYS’ FEES.—The provi-
20 sions of subparagraph (F) shall not apply in
21 any action or proceeding if the court finds that
22 the State or local educational agency unreason-
23 ably protracted the final resolution of the action
24 or proceeding or there was a violation of this
25 section.

1 “(j) MAINTENANCE OF CURRENT EDUCATIONAL
2 PLACEMENT.—Except as provided in subsection (k), dur-
3 ing the pendency of any proceedings conducted pursuant
4 to this section, unless the State or local educational agency
5 and the parents otherwise agree, the child shall remain
6 in the then current educational placement of such child,
7 or, if applying for initial admission to a public school,
8 shall, with the consent of the parents, be placed in the
9 public school program until all such proceedings have been
10 completed.

11 “(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL
12 SETTING.—

13 “(1) AUTHORITY OF SCHOOL PERSONNEL.—
14 School personnel under this section may, to the
15 same extent as a court, order a change in the place-
16 ment of a child with a disability—

17 “(A) to an appropriate interim alternative
18 educational setting, another setting for not
19 more than 10 school days, or suspension (to the
20 extent such alternatives would be applied to
21 children without disabilities); and

22 “(B) to an appropriate interim alternative
23 educational setting for not more than an addi-
24 tional 45 school days if—

1 “(i) the child carries a weapon to
2 school or to a school function under the ju-
3 risdiction of a State or a local educational
4 agency;

5 “(ii) the child possesses or uses illegal
6 drugs or sells or solicits the sale of medica-
7 tions or illegal drugs while at school or a
8 school function under the jurisdiction of a
9 State or local educational agency; or

10 “(iii) the child commits an assault
11 and battery while at school or at a school
12 function under the jurisdiction of a State
13 or a local educational agency.

14 “(2) AUTHORITY OF HEARING OFFICER.—A
15 hearing officer under this section may, to the same
16 extent as a court, order a change in the placement
17 of a child with a disability to an appropriate interim
18 alternative educational setting for not more than 45
19 school days if—

20 “(A) the maintenance of the current place-
21 ment of such child is substantially likely to re-
22 sult in injury to the child or to others; and

23 “(B) the hearing officer—

24 “(i) determines that the public agency
25 has demonstrated by substantial evidence

1 that the requirement of subparagraph (A)
2 has been met;

3 “(ii) considers the appropriateness of
4 the child’s current placement; and

5 “(iii) considers whether the public
6 agency has made reasonable efforts to min-
7 imize the risk of harm through the use of
8 supplementary aids and services.

9 “(3) DETERMINATION OF SETTING.—The alter-
10 native educational setting described in paragraph (1)
11 or paragraph (2) shall be determined by the individ-
12 ualized education program team.

13 “(4) MANIFESTATION DETERMINATION RE-
14 VIEW.—

15 “(A) IN GENERAL.—If a change in place-
16 ment or disciplinary proceeding, including ex-
17 pulsion, is contemplated as a result of an action
18 described in paragraph (1) or paragraph (2)—

19 “(i) not later than 3 school days after
20 the date on which such action has been
21 taken the parents shall be notified of such
22 action; and

23 “(ii) not later than 15 school days
24 after the date on which such action has
25 been taken a review shall be conducted of

1 the relationship between the child’s disabil-
2 ity and the behavior described in para-
3 graph (1).

4 “(B) INDIVIDUALS TO CARRY OUT RE-
5 VIEW.—A review described in subparagraph (A)
6 shall be conducted by the IEP Team.

7 “(C) CONDUCT OF REVIEW.—In carrying
8 out a review described in subparagraph (A), the
9 individuals described in subparagraph (B) shall
10 consider appropriate factors, including—

11 “(i) the appropriateness of the child’s
12 placement;

13 “(ii) the consistency of the implemen-
14 tation of the child’s entire IEP, including
15 the technical soundness of the behavior
16 management plan;

17 “(iii) evaluation and diagnostic re-
18 sults, which may include any such results
19 supplied by the parents or guardian of the
20 child; and

21 “(iv) observations of the child.

22 “(5) DETERMINATION THAT BEHAVIOR WAS
23 MANIFESTATION OF DISABILITY.—If the result of
24 the review described in paragraph (4) is a deter-
25 mination that the behavior of the child with a dis-

1 ability was a manifestation of such child’s disability
2 and the parents of such child agree with such deter-
3 mination, the educational placement of such child
4 may be changed. If the parents do not agree with
5 such determination or with such changed educational
6 placement, an immediate appeal may be made to a
7 hearing officer to determine whether the child’s
8 placement should be changed. Any party aggrieved
9 by the determination of the hearing officer may initi-
10 ate a due process hearing as described in subsection
11 (f).

12 “(6) DETERMINATION THAT BEHAVIOR WAS
13 NOT MANIFESTATION OF DISABILITY.—If the result
14 of the review described in paragraph (4) is a deter-
15 mination that the behavior of the child with a dis-
16 ability was not a manifestation of such child’s dis-
17 ability, the relevant disciplinary procedures applica-
18 ble to children without disabilities shall be applied in
19 the same manner in which they would be applied to
20 children without disabilities. If the parents do not
21 agree with such application, a due process hearing,
22 as described in subsection (f), may be initiated. Dur-
23 ing the pendency of such due process procedures, the
24 child shall continue to receive educational services in
25 the alternative educational setting.

1 “(7) EXPEDITED HEARING.—The State or local
2 educational agency shall arrange for an expedited
3 hearing in any case described in this subsection
4 when requested by the parent.

5 “(8) ADDITIONAL REQUIREMENT.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), if the parent of a child de-
8 scribed in this section requests a hearing pursu-
9 ant to subsection (f), the child shall remain in
10 the alternative educational setting in which
11 such child was placed during the pendency of
12 any proceedings under this section, unless the
13 parents and the State or local educational agen-
14 cy agree otherwise.

15 “(B) SPECIAL RULE.—The limitations on
16 the authority of a school to change the edu-
17 cational placement of a child with a disability
18 under this part shall not apply to a child—

19 “(i) who has requested, or on whose
20 behalf another individual has requested, an
21 initial evaluation pursuant to section 614;
22 and

23 “(ii) who has not yet been determined
24 to be a child with a disability, as defined
25 in section 602(3).

1 “(9) DEFINITIONS.—For purposes of this sub-
2 section, the terms ‘illegal’, ‘drugs’, ‘weapon’, and
3 ‘assault and battery’ shall be defined in accordance
4 with State law or State policy relating to disciplinary
5 procedures regarding children who do not have dis-
6 abilities.

7 “(1) RULE OF CONSTRUCTION.—Nothing in this part
8 shall be construed to restrict or limit the rights, proce-
9 dures, and remedies available under the Americans with
10 Disabilities Act, title V of the Rehabilitation Act of 1973,
11 or other Federal laws protecting the rights of children
12 with disabilities, except that before the filing of a civil ac-
13 tion under such laws seeking relief that is also available
14 under this part, the procedures under subsections (f) and
15 (g) shall be exhausted to the same extent as would be re-
16 quired had the action been brought under this part.

17 “(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF
18 MAJORITY.—A State that receives amounts from a grant
19 under this part may provide that, when a child with a dis-
20 ability reaches the age of majority under State law (except
21 for a child with a disability who has been determined to
22 be incompetent by a court)—

23 “(1) the public agency shall provide any notice
24 required by this section to both the individual and
25 the parents;

1 “(2) all other rights accorded to parents under
2 this part transfer to the child;

3 “(3) the agency shall notify the individual and
4 the parents of the transfer of rights; and

5 “(4) all rights accorded to parents under this
6 part transfer to children who are incarcerated in an
7 adult or juvenile Federal, State, or local correctional
8 institution.

9 **“SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.**

10 “(a) WITHHOLDING OF PAYMENTS.—

11 “(1) IN GENERAL.—Whenever the Secretary,
12 after reasonable notice and opportunity for hearing
13 to the State educational agency involved (and to any
14 local educational agency or State agency affected by
15 any failure described in subparagraph (B)), finds—

16 “(A) that there has been a failure by the
17 State to comply substantially with any provision
18 of this part; or

19 “(B) that there is a failure to comply with
20 any condition of a local educational agency’s or
21 State agency’s eligibility under this part;

22 the Secretary shall, after notifying the State edu-
23 cational agency, withhold any further payments to
24 the State under this part.

1 “(2) NATURE OF WITHHOLDING.—If the Sec-
2 retary withholds further payments under paragraph
3 (1), the Secretary may determine that such with-
4 holding will be limited to programs or projects, or
5 portions thereof, affected by the failure, or that the
6 State educational agency shall not make further pay-
7 ments under this part to specified local educational
8 agencies or State agencies affected by the failure.
9 Until the Secretary is satisfied that there is no
10 longer any failure to comply with the provisions of
11 this part, as specified in subparagraph (A) or (B) of
12 paragraph (1), no further payments shall be made to
13 the State under this part, or payments by the State
14 educational agency under this part shall be limited
15 to local educational agencies and State agencies
16 whose actions did not cause or were not involved in
17 the failure, as the case may be. Any State edu-
18 cational agency, State agency, or local educational
19 agency that has received notice under paragraph (1)
20 shall, by means of a public notice, take such meas-
21 ures as may be necessary to bring the pendency of
22 an action pursuant to this subsection to the atten-
23 tion of the public within the jurisdiction of such
24 agency.

25 “(b) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—If any State is dissatisfied
2 with the Secretary’s final action with respect to the
3 eligibility of the State under section 612, such State
4 may, not later than 60 days after notice of such ac-
5 tion, file with the United States court of appeals for
6 the circuit in which such State is located a petition
7 for review of that action. A copy of the petition shall
8 be forthwith transmitted by the clerk of the court to
9 the Secretary. The Secretary thereupon shall file in
10 the court the record of the proceedings upon which
11 the Secretary’s action was based, as provided in sec-
12 tion 2112 of title 28, United States Code.

13 “(2) JURISDICTION; REVIEW BY UNITED
14 STATES SUPREME COURT.—Upon the filing of such
15 petition, the court shall have jurisdiction to affirm
16 the action of the Secretary or to set it aside, in
17 whole or in part. The judgment of the court shall be
18 subject to review by the Supreme Court of the Unit-
19 ed States upon certiorari or certification as provided
20 in section 1254 of title 28, United States Code.

21 “(3) STANDARD OF REVIEW.—The findings of
22 fact by the Secretary, if supported by substantial
23 evidence, shall be conclusive, but the court, for good
24 cause shown, may remand the case to the Secretary
25 to take further evidence, and the Secretary may

1 thereupon make new or modified findings of fact and
2 may modify the Secretary's previous action, and
3 shall file in the court the record of the further pro-
4 ceedings. Such new or modified findings of fact shall
5 likewise be conclusive if supported by substantial evi-
6 dence.

7 **“SEC. 617. ADMINISTRATION.**

8 “(a) RESPONSIBILITIES OF SECRETARY.—In carry-
9 ing out this part, the Secretary shall—

10 “(1) cooperate with, and (directly or by grant
11 or contract) furnish technical assistance necessary
12 to, the State in matters relating to—

13 “(A) the education of children with disabil-
14 ities; and

15 “(B) carrying out this part; and

16 “(2) provide short-term training programs and
17 institutes.

18 “(b) RULES AND REGULATIONS.—In carrying out
19 the provisions of this part, the Secretary shall issue regu-
20 lations under this Act only to the extent that such regula-
21 tions are necessary to ensure that there is compliance with
22 the specific requirements of this Act.

23 “(c) CONFIDENTIALITY.—The Secretary shall take
24 appropriate action, in accordance with the provisions of
25 section 444 of the General Education Provisions Act (20

1 U.S.C. 1232g), to assure the protection of the confiden-
2 tiality of any personally identifiable data, information, and
3 records collected or maintained by the Secretary and by
4 State and local educational agencies pursuant to the provi-
5 sions of this part.

6 “(d) PERSONNEL.—The Secretary is authorized to
7 hire qualified personnel necessary to conduct data collec-
8 tion and evaluation activities authorized by subsection (a)
9 and section 618 without regard to the provisions of title
10 5, United States Code, relating to appointments in the
11 competitive service and without regard to chapter 51 and
12 subchapter 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 **“SEC. 618. PROGRAM INFORMATION.**

17 “Each State that receives assistance under this part,
18 and the Secretary of the Interior, shall provide data each
19 year to the Secretary on—

20 “(1) the number of children who are receiv-
21 ing—

22 “(A) a free appropriate public education;

23 or

24 “(B) early intervention services because—

1 “(i) such children have developmental
2 delays; or

3 “(ii) such children have a diagnosed
4 physical or mental condition that has a
5 high probability of resulting in devel-
6 opmental delay;

7 “(2) the progress of the State, and of the chil-
8 dren with disabilities in the State, toward meeting
9 the goals established under section 612(14);

10 “(3) the types of early intervention services pro-
11 vided to such children, which may be based on a
12 sampling of data;

13 “(4) the number of children with disabilities—

14 “(A) participating in regular education
15 programs;

16 “(B) in separate classes, separate schools
17 or facilities, or public or private residential fa-
18 cilities;

19 “(C) who have been otherwise removed
20 from the regular education environment; and

21 “(D) in various early intervention settings;

22 “(5) for each year of age from age 14 to 21,
23 the number of children with disabilities who, because
24 of program completion or for other reasons, stopped
25 receiving special education, and the reasons why

1 such children stopped receiving such special edu-
2 cation, which may be based on a sampling of data;

3 “(6)(A) the number of children with disabilities,
4 who, under section 615(k), are removed to an in-
5 terim alternative educational setting;

6 “(B) the acts or items precipitating such re-
7 movals; and

8 “(C) the number of children with disabilities
9 who are expelled from school without receiving serv-
10 ices; and

11 “(7) any other information required by the Sec-
12 retary.

13 **“SEC. 619. PRESCHOOL GRANTS.**

14 “(a) IN GENERAL.—The Secretary shall provide
15 grants under this section to assist States to provide special
16 education and related services, in accordance with this
17 part—

18 “(1) to children with disabilities aged 3 to 5, in-
19 clusive; and

20 “(2) at the State’s discretion, to 2-year-old chil-
21 dren with disabilities who will turn 3 during the
22 school year.

23 “(b) ELIGIBILITY.—A State shall be eligible for a
24 grant under this section if such State—

1 “(1) is eligible under section 612 to receive a
2 grant under this part; and

3 “(2) makes a free appropriate public education
4 available to all children with disabilities, aged 3 to
5 5, inclusive, residing in the State.

6 “(c) AMOUNT.—

7 “(1) IN GENERAL.—From the amount appro-
8 priated for any fiscal year pursuant to the author-
9 ization of appropriations under subsection (m), the
10 Secretary shall allot to each eligible State the
11 amount it received for fiscal year 1996 under this
12 section (as this section was in effect on the day be-
13 fore the date of the enactment of the IDEA Im-
14 provement Act of 1996).

15 “(2) INSUFFICIENT FUNDS.—

16 “(A) IN GENERAL.—If the amount appro-
17 priated under subsection (m) for a fiscal year is
18 insufficient to make the full allotments de-
19 scribed in paragraph (1), the Secretary shall—

20 “(i) first, reduce the allocation to any
21 State whose number of children aged 3 to
22 5, inclusive, is less than the number of
23 such children in such State in fiscal year
24 1995 by the same percentage by which

1 such number of children declined from the
2 number of children in fiscal year 1995; and

3 “(ii) second, if necessary, ratably re-
4 duce the allocations of all States, including
5 those allocations reduced under clause (i).

6 “(B) AVAILABILITY OF ADDITIONAL
7 FUNDS.—If additional funds become available
8 to make allocations under this section, the allo-
9 cations that were reduced under subparagraph
10 (A) shall be increased on the same basis as
11 such allocations were reduced.

12 “(d) ALLOTMENT OF REMAINING FUNDS.—After
13 making allotments under subsection (c), the Secretary
14 shall allot any remaining funds to eligible States on the
15 basis of their relative population of children aged 3 to 5,
16 inclusive.

17 “(e) SPECIAL RULE WITH RESPECT TO PUERTO
18 RICO.—Notwithstanding any other provision of this sub-
19 section, the amount allotted to Puerto Rico for a fiscal
20 year shall bear the same or lower proportion to the amount
21 appropriated pursuant to subsection (m) as the amount
22 received by Puerto Rico under this section for fiscal year
23 1996 bears to the aggregate of the amounts received by
24 all States under this section for fiscal year 1996.

1 “(f) DETERMINATION OF POPULATION FIGURES.—
2 For the purpose of providing grants under this section,
3 the Secretary shall use the most recent population data
4 that are available and satisfactory to the Secretary.

5 “(g) RESERVATION FOR STATE ACTIVITIES.—A
6 State may reserve not more than 10 percent of the amount
7 allotted to the State under this section for a fiscal year
8 for administration and other State-level activities in ac-
9 cordance with subsections (h) and (i).

10 “(h) STATE ADMINISTRATION.—

11 “(1) IN GENERAL.—A State may use up to 2
12 percent of the amount allotted to the State under
13 this section for a fiscal year for the purpose of ad-
14 ministering this section, including the coordination
15 of activities under this part with, and providing
16 technical assistance to, other programs that provide
17 services to children with disabilities.

18 “(2) USE OF AMOUNTS FOR ADMINISTRATION
19 OF PART C.—If the State educational agency is the
20 lead agency for the State under part C, amounts de-
21 scribed in paragraph (1) may also be used for the
22 administration of such part C.

23 “(i) OTHER STATE-LEVEL ACTIVITIES.—Each State
24 shall use any funds it retains under subsection (g) and
25 does not use for administration under subsection (h)—

1 “(1) for support services (including establishing
2 and implementing the mediation process required by
3 section 615(d)), which may benefit children with dis-
4 abilities younger than 3 or older than 5 as long as
5 those services also benefit children with disabilities
6 aged 3 to 5, inclusive;

7 “(2) for direct services for children eligible for
8 services under this section;

9 “(3) to develop a State improvement plan under
10 part D;

11 “(4) for activities at the State and local levels
12 to meet the performance goals established by the
13 State under section 612(a)(14) and to support im-
14 plementation of the State improvement plan under
15 part D if the State receives funds under that part;

16 or

17 “(5) to supplement other funds used to develop
18 and implement a Statewide coordinated services sys-
19 tem designed to improve results for children and
20 families, including children with disabilities and their
21 families, but not to exceed one percent of the
22 amount received by the State under this section for
23 a fiscal year.

24 “(j) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
25 CIES.—

1 “(1) REQUIREMENT TO MAKE SUBGRANTS.—
2 Each State that receives a grant under this section
3 for any fiscal year shall distribute at least 90 per-
4 cent of the grant funds to local educational agencies
5 in the State, and to State agencies that received
6 funds under section 614A(a) (as such section was in
7 effect on the day before the date of the enactment
8 of the IDEA Improvement Act of 1996) for fiscal
9 year 1996, that have established their eligibility
10 under section 613.

11 “(2) METHODS OF DISTRIBUTION.—A State
12 may distribute funds under paragraph (1) on the
13 basis of—

14 “(A) total school age population;

15 “(B) school enrollment;

16 “(C) numbers of children with disabilities
17 aged 3 to 5, inclusive, receiving a free appro-
18 priate public education;

19 “(D) allocations for previous fiscal years;

20 “(E) any two or more of the factors de-
21 scribed in subparagraphs (A) through (D); or

22 “(F) poverty, in combination with one or
23 more of the factors described in subparagraphs
24 (A) through (D).

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 therefore the policy of the United
15 States to provide financial assistance to States—

16 “(1) to develop and implement a statewide,
17 comprehensive, coordinated, multidisciplinary, inter-
18 agency system of early intervention services for in-
19 fants and toddlers with disabilities and their fami-
20 lies;

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); and

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.

6 **“SEC. 632. DEFINITIONS.**

7 “As used in this part:

8 “(1) **AT-RISK INFANT OR TODDLER.**—The term
9 ‘at-risk infant or toddler’ means an individual under
10 3 years of age who would be at risk of experiencing
11 a substantial developmental delay if early interven-
12 tion services were not provided to the individual.

13 “(2) **COUNCIL.**—The term ‘council’ means a
14 State interagency coordinating council established
15 under section 641.

16 “(3) **DEVELOPMENTAL DELAY.**—The term ‘de-
17 velopmental delay’, when used with respect to an in-
18 dividual residing in a State, has the meaning given
19 such term by the State under section 635(a)(1).

20 “(4) **EARLY INTERVENTION SERVICES.**—The
21 term ‘early intervention services’ means developmen-
22 tal services which—

23 “(A) are provided under public supervision;

24 “(B) are provided at no cost except where

25 Federal or State law provides for a system of

1 payments by families, including a schedule of
2 sliding fees;

3 “(C) are designed to meet the developmen-
4 tal needs of an infant or toddler with a disabil-
5 ity in any one or more of the following areas—

6 “(i) physical development;

7 “(ii) cognitive development;

8 “(iii) communication development;

9 “(iv) social or emotional development;

10 or

11 “(v) adaptive development;

12 “(D) meet the standards of the State in
13 which they are provided, including the require-
14 ments of this part;

15 “(E) include—

16 “(i) family training, counseling, and
17 home visits;

18 “(ii) special instruction;

19 “(iii) speech-language pathology and
20 audiology services;

21 “(iv) occupational therapy;

22 “(v) physical therapy;

23 “(vi) psychological services;

24 “(vii) service coordination services;

1 “(viii) medical services only for diag-
2 nostic or evaluation purposes;

3 “(ix) early identification, screening,
4 and assessment services;

5 “(x) health services necessary to en-
6 able the infant or toddler to benefit from
7 the other early intervention services;

8 “(xi) social work services;

9 “(xii) vision services;

10 “(xiii) assistive technology devices and
11 assistive technology services; and

12 “(xiv) transportation and related costs
13 that are necessary to enable an infant or
14 toddler and the infant’s or toddler’s family
15 to receive another service described in this
16 paragraph;

17 “(F) are provided by qualified personnel,
18 including—

19 “(i) special educators;

20 “(ii) speech-language pathologists and
21 audiologists;

22 “(iii) occupational therapists;

23 “(iv) physical therapists;

24 “(v) psychologists;

25 “(vi) social workers;

1 “(vii) nurses;

2 “(viii) nutritionists;

3 “(ix) family therapists;

4 “(x) orientation and mobility special-
5 ists; and

6 “(xi) pediatricians and other physi-
7 cians;

8 “(G) to the maximum extent appropriate,
9 are provided in natural environments, including
10 the home, and community settings in which
11 children without disabilities participate; and

12 “(H) are provided in conformity with an
13 individualized family service plan adopted in ac-
14 cordance with section 636.

15 “(5) INFANT OR TODDLER WITH A DISABIL-
16 ITY.—The term ‘infant or toddler with a disabili-
17 ty’—

18 “(A) means an individual under 3 years of
19 age who needs early intervention services be-
20 cause the individual—

21 “(i) is experiencing developmental
22 delays, as measured by appropriate diag-
23 nostic instruments and procedures in one
24 or more of the areas of cognitive develop-
25 ment, physical development, communica-

1 tion development, social or emotional devel-
2 opment, and adaptive development; or

3 “ (ii) has a diagnosed physical or men-
4 tal condition which has a high probability
5 of resulting in developmental delay; and

6 “ (B) may also include, at a State’s discre-
7 tion, at-risk infants and toddlers.

8 **“SEC. 633. GENERAL AUTHORITY.**

9 “The Secretary shall, in accordance with this part,
10 make grants to States (from their allocations under sec-
11 tion 643) to assist each State to maintain and implement
12 a statewide, comprehensive, coordinated, multidisciplinary,
13 interagency system to provide early intervention services
14 for infants and toddlers with disabilities and their families.

15 **“SEC. 634. ELIGIBILITY.**

16 “In order to be eligible for a grant under section 633,
17 a State shall demonstrate to the Secretary that the
18 State—

19 “ (1) has adopted a policy that appropriate early
20 intervention services are available to all infants and
21 toddlers with disabilities in the State and their fami-
22 lies, including Indian infants and toddlers with dis-
23 abilities and their families residing on a reservation
24 geographically located in the State; and

1 “(2) has in effect a statewide system that meets
2 the requirements of section 635.

3 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

4 “(a) IN GENERAL.—A statewide system described in
5 section 633 shall include, at a minimum, the following
6 components:

7 “(1) A definition of the term ‘developmental
8 delay’ that will be used by the State in carrying out
9 programs under this part.

10 “(2) A timely, comprehensive, multidisciplinary
11 evaluation of the functioning of each infant or tod-
12 dler with a disability in the State, and a family-
13 directed identification of the needs of each family of
14 such an infant or toddler, to appropriately assist in
15 the development of the infant or toddler.

16 “(3) For each infant or toddler with a disability
17 in the State, an individualized family service plan in
18 accordance with section 636, including service co-
19 ordination services in accordance with such service
20 plan.

21 “(4) A comprehensive child find system, con-
22 sistent with part B, including a system for making
23 referrals to service providers that includes timelines
24 and provides for participation by primary referral
25 sources.

1 “(5) A public awareness program focusing on
2 early identification of infants and toddlers with dis-
3 abilities, including the preparation and dissemination
4 by the lead agency designated or established under
5 paragraph (8) to all primary referral sources, espe-
6 cially hospitals and physicians, of information for
7 parents on the availability of early intervention serv-
8 ices, and procedures for determining the extent to
9 which such sources disseminate such information to
10 parents of infants and toddlers.

11 “(6) A central directory which includes infor-
12 mation on early intervention services, resources, and
13 experts available in the State and research and dem-
14 onstration projects being conducted in the State.

15 “(7) Policies and procedures relating to the es-
16 tablishment and maintenance of standards to ensure
17 that personnel necessary to carry out this part are
18 appropriately and adequately prepared and trained,
19 including—

20 “(A) the establishment and maintenance of
21 standards which are consistent with any State
22 approved or recognized certification, licensing,
23 registration, or other comparable requirements
24 which apply to the area in which such personnel
25 are providing early intervention services; and

1 “(B) subject to subsection (b), to the ex-
2 tent such standards are not based on the high-
3 est requirements in the State applicable to a
4 specific profession or discipline, the steps the
5 State is taking to require the retraining or hir-
6 ing of personnel that meet appropriate profes-
7 sional requirements in the State;

8 except that nothing in this part, including this para-
9 graph, prohibits the use of paraprofessionals and as-
10 sistants who are appropriately trained and super-
11 vised, in accordance with State law, regulations, or
12 written policy, in meeting the requirements of this
13 part.

14 “(8) A single line of responsibility in a lead
15 agency designated or established by the Governor for
16 carrying out—

17 “(A) the general administration and super-
18 vision of programs and activities receiving as-
19 sistance under section 633, and the monitoring
20 of programs and activities used by the State to
21 carry out this part, whether or not such pro-
22 grams or activities are receiving assistance
23 made available under section 633, to ensure
24 that the State complies with this part;

1 “(B) the identification and coordination of
2 all available resources within the State from
3 Federal, State, local and private sources;

4 “(C) the assignment of financial respon-
5 sibility in accordance with section 637(a)(1) to
6 the appropriate agencies;

7 “(D) the development of procedures to en-
8 sure that services are provided to infants and
9 toddlers and their families under this part in a
10 timely manner pending the resolution of any
11 disputes among public agencies or service pro-
12 viders; and

13 “(E) the entry into formal interagency
14 agreements that define the financial responsibil-
15 ity of each agency for paying for early interven-
16 tion services (consistent with State law) and
17 procedures for resolving disputes and that in-
18 clude all additional components necessary to en-
19 sure meaningful cooperation and coordination.

20 “(9) A procedure for securing timely reimburse-
21 ment of funds used under this part in accordance
22 with section 640(a).

23 “(10) Procedural safeguards with respect to
24 programs under this part, as required by section
25 639.

1 “(11) A system for compiling data requested by
2 the Secretary under section 618 that relates to this
3 part.

4 “(12) A State interagency coordinating council
5 that meets the requirements of section 641.

6 “(b) MODIFICATION OF PERSONNEL REQUIRE-
7 MENT.—If a State determines that the requirement of
8 subsection (a)(7)(B) would significantly inhibit the ability
9 of the State to contract with, or employ, an appropriate
10 number and types of personnel to provide early interven-
11 tion services to infants and toddlers with disabilities in
12 a geographic region, the State may, subject to public no-
13 tice and comment, temporarily modify the requirement for
14 the region.

15 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

16 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—
17 A statewide system described in section 633 shall provide,
18 at a minimum, for each infant or toddler with a disability,
19 and the infant’s or toddler’s family, to receive—

20 “(1) a multidisciplinary assessment of the
21 unique strengths and needs of the infant or toddler
22 and the identification of services appropriate to meet
23 such needs;

24 “(2) a family-directed assessment of the re-
25 sources, priorities, and concerns of the family and

1 the identification of the supports and services nec-
2 essary to enhance the family’s capacity to meet the
3 developmental needs of the infant or toddler; and

4 “(3) a written individualized family service plan
5 developed by a multidisciplinary team, including the
6 parents, as required by subsection (e).

7 “(b) PERIODIC REVIEW.—The individualized family
8 service plan shall be evaluated once a year and the family
9 shall be provided a review of the plan at 6-month intervals
10 (or more often where appropriate based on infant or tod-
11 dler and family needs).

12 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
13 vidualized family service plan shall be developed within a
14 reasonable time after the assessment required by sub-
15 section (a)(1) is completed. With the parents’ consent,
16 early intervention services may commence prior to the
17 completion of such assessment.

18 “(d) CONTENT OF PLAN.—The individualized family
19 service plan shall be in writing and contain—

20 “(1) a statement of the infant’s or toddler’s
21 present levels of physical development, cognitive de-
22 velopment, communication development, social or
23 emotional development, and adaptive development,
24 based on objective criteria;

1 “(2) a statement of the family’s resources, pri-
2 orities, and concerns relating to enhancing the devel-
3 opment of the family’s infant or toddler with a dis-
4 ability;

5 “(3) a statement of the major outcomes ex-
6 pected to be achieved for the infant or toddler and
7 the family, and the criteria, procedures, and
8 timelines used to determine the degree to which
9 progress toward achieving the outcomes is being
10 made and whether modifications or revisions of the
11 outcomes or services are necessary;

12 “(4) a statement of specific early intervention
13 services necessary to meet the unique needs of the
14 infant or toddler and the family, including the fre-
15 quency, intensity, and method of delivering services;

16 “(5) a statement of the natural environments in
17 which early intervention services shall appropriately
18 be provided;

19 “(6) the projected dates for initiation of serv-
20 ices and the anticipated duration of such services;

21 “(7) the identification of the service coordinator
22 from the profession most immediately relevant to the
23 infant’s or toddler’s or family’s needs (or who is oth-
24 erwise qualified to carry out all applicable respon-
25 sibilities under this part) who will be responsible for

1 the implementation of the plan and coordination
2 with other agencies and persons; and

3 “(8) the steps to be taken to support the transi-
4 tion of the toddler with a disability to preschool or
5 other appropriate services.

6 “(e) PARENTAL CONSENT.—The contents of the indi-
7 vidualized family service plan shall be fully explained to
8 the parents and informed written consent from such par-
9 ents shall be obtained prior to the provision of early inter-
10 vention services described in such plan. If such parents
11 do not provide such consent with respect to a particular
12 early intervention service, then the early intervention serv-
13 ices to which such consent is obtained shall be provided.

14 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

15 “(a) APPLICATION.—A State desiring to receive a
16 grant under section 633 shall submit an application to the
17 Secretary at such time and in such manner as the Sec-
18 retary may reasonably require. Such application shall con-
19 tain—

20 “(1) a designation of the lead agency in the
21 State that will be responsible for the administration
22 of funds provided under section 633;

23 “(2) information demonstrating eligibility of the
24 State under section 634, including—

1 “(A) information demonstrating to the
2 Secretary’s satisfaction that the State has in ef-
3 fect the statewide system required by section
4 633; and

5 “(B) a description of services to be pro-
6 vided to infants and toddlers with disabilities
7 and their families through the system;

8 “(3) a description of the uses for which funds
9 will be expended in accordance with this part;

10 “(4) a description of the procedure used to en-
11 sure that resources are made available under this
12 part for all geographic areas within the State;

13 “(5) a description of the policies and procedures
14 to be used—

15 “(A) to ensure a smooth transition for tod-
16 dlers receiving early intervention services under
17 this part to preschool or other appropriate serv-
18 ices, including a description of how the families
19 of such toddlers will be included in the transi-
20 tion plans required by subparagraph (C);

21 “(B) to review the child’s program options
22 for the period from the child’s third birthday
23 through the remainder of the school year; and

24 “(C) to establish a transition plan; and

1 “(6) such other information and assurances as
2 the Secretary may reasonably require.

3 “(b) ASSURANCES.—The application described in
4 subsection (a) shall contain the following:

5 “(1) A satisfactory assurance that the State
6 will—

7 “(A) make such reports in such form and
8 containing such information as the Secretary
9 may require to carry out the Secretary’s func-
10 tions under this part; and

11 “(B) keep such records and afford such ac-
12 cess thereto as the Secretary may find nec-
13 essary to assure the correctness and verification
14 of such reports and proper disbursement of
15 Federal funds under this part.

16 “(2) A satisfactory assurance that Federal
17 funds made available under section 633 will be used
18 to supplement and increase the level of State and
19 local funds expended for infants and toddlers with
20 disabilities and their families under this part and in
21 no case to supplant such State and local funds.

22 “(3) Such other information and assurances as
23 the Secretary may reasonably require by regulation.

24 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
25 TION.—The Secretary may not disapprove such an appli-

1 cation unless the Secretary determines, after notice and
2 opportunity for a hearing, that the application fails to
3 comply with the requirements of this section.

4 “(d) SUBSEQUENT STATE APPLICATION.—If a State
5 has on file with the Secretary a policy, procedure, or as-
6 surance that demonstrates that the State meets a require-
7 ment of this section, including any policy or procedure
8 filed under part H (as in effect before the date of the en-
9 actment of the IDEA Improvement Act of 1996), the Sec-
10 retary shall consider the State to have met the require-
11 ment for purposes of receiving a grant under this part.

12 “(e) MODIFICATION OF APPLICATION.—An applica-
13 tion submitted by a State in accordance with this section
14 shall remain in effect until the State submits to the Sec-
15 retary such modifications as the State determines nec-
16 essary. This section shall apply to a modification of an
17 application to the same extent and in the same manner
18 as this section applies to the original application.

19 **“SEC. 638. USES OF FUNDS.**

20 “In addition to using funds provided under section
21 633 to maintain and implement the statewide system re-
22 quired by such section, a State may use such funds—

23 “(1) for direct early intervention services for in-
24 fants and toddlers with disabilities, and their fami-

1 lies, under this part that are not otherwise funded
2 through other public or private sources;

3 “(2) to expand and improve on services for in-
4 fants and toddlers and their families under this part
5 that are otherwise available; and

6 “(3) to provide a free appropriate public edu-
7 cation, in accordance with part B, to children with
8 disabilities from their third birthday to the begin-
9 ning of the following school year.

10 **“SEC. 639. PROCEDURAL SAFEGUARDS.**

11 “(a) MINIMUM PROCEDURES.—The procedural safe-
12 guards required to be included in a statewide system
13 under section 635(a)(10) shall provide, at a minimum, the
14 following:

15 “(1) The timely administrative resolution of
16 complaints by parents. Any party aggrieved by the
17 findings and decision regarding an administrative
18 complaint shall have the right to bring a civil action
19 with respect to the complaint in any State court of
20 competent jurisdiction or in a district court of the
21 United States without regard to the amount in con-
22 troversy. In any action brought under this para-
23 graph, the court shall receive the records of the ad-
24 ministrative proceedings, shall hear additional evi-
25 dence at the request of a party, and, basing its deci-

1 sion on the preponderance of the evidence, shall
2 grant such relief as the court determines is appro-
3 priate.

4 “(2) The right to confidentiality of personally
5 identifiable information, including the right of par-
6 ents to written notice of and written consent to the
7 exchange of such information among agencies con-
8 sistent with Federal and State law.

9 “(3) The right of the parents to determine
10 whether they, their infant or toddler, or other family
11 members will accept or decline any early intervention
12 service under this part in accordance with State law
13 without jeopardizing other early intervention services
14 under this part.

15 “(4) The opportunity for parents to examine
16 records relating to assessment, screening, eligibility
17 determinations, and the development and implemen-
18 tation of the individualized family service plan.

19 “(5) Procedures to protect the rights of the in-
20 fant or toddler whenever the parents of the child are
21 not known or cannot be found or the child is a ward
22 of the State, including the assignment of an individ-
23 ual (who shall not be an employee of the State or
24 any person, or any employee of a person, providing
25 early intervention services to the infant or toddler or

1 any family member of the infant or toddler) to act
2 as a surrogate for the parents.

3 “(6) Written prior notice to the parents of the
4 infant or toddler with a disability whenever the State
5 agency or service provider proposes to initiate or
6 change or refuses to initiate or change the identifica-
7 tion, evaluation, placement, or the provision of ap-
8 propriate early intervention services to the infant or
9 toddler with a disability.

10 “(7) Procedures designed to assure that the no-
11 tice required by paragraph (6) fully informs the par-
12 ents, in the parents’ native language, unless it clear-
13 ly is not feasible to do so, of all procedures available
14 pursuant to this section.

15 “(8) The right of parents to use mediation in
16 accordance with section 615(e), except that—

17 “(A) any reference in such section to a
18 State educational agency shall be considered to
19 be a reference to a State’s lead agency estab-
20 lished or designated under section 635(a)(8);

21 “(B) any reference in such section to a
22 local educational agency shall be considered to
23 be a reference to a local service provider or the
24 State’s lead agency under this part, as the case
25 may be; and

1 “(C) any reference in such section to the
2 provision of free appropriate public education to
3 children with disabilities shall be considered to
4 be a reference to the provision of appropriate
5 early intervention services to infants and tod-
6 dlers with disabilities.

7 “(b) SERVICES DURING PENDENCY OF PROCEED-
8 INGS.—During the pendency of any proceeding or action
9 involving a complaint by the parents of an infant or tod-
10 dler with a disability, unless the State agency and the par-
11 ents otherwise agree, the infant or toddler shall continue
12 to receive the appropriate early intervention services cur-
13 rently being provided or, if applying for initial services,
14 shall receive the services not in dispute.

15 **“SEC. 640. PAYOR OF LAST RESORT.**

16 “(a) NONSUBSTITUTION.—Funds provided under
17 section 643 may not be used to satisfy a financial commit-
18 ment for services which would have been paid for from
19 another public or private source but for the enactment of
20 this part, except that whenever considered necessary to
21 prevent a delay in the receipt of appropriate early inter-
22 vention services by an infant, toddler, or family in a timely
23 fashion, funds provided under section 643 may be used
24 to pay the provider of services pending reimbursement

1 from the agency which has ultimate responsibility for the
2 payment.

3 “(b) REDUCTION OF OTHER BENEFITS.—Nothing in
4 this part shall be construed to permit the State to reduce
5 medical or other assistance available or to alter eligibility
6 under title V of the Social Security Act (relating to mater-
7 nal and child health) or title XIX of the Social Security
8 Act (relating to medicaid for infants or toddlers with dis-
9 abilities) within the State.

10 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

11 “(a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—A State that desires to re-
13 ceive financial assistance under this part shall estab-
14 lish a State interagency coordinating council.

15 “(2) APPOINTMENT.—The council shall be ap-
16 pointed by the Governor. In making appointments to
17 the council, the Governor shall ensure that the mem-
18 bership of the council reasonably represents the pop-
19 ulation of the State.

20 “(3) CHAIRPERSON.—The Governor shall des-
21 ignate a member of the council to serve as the chair-
22 person of the Council, or shall require the council to
23 so designate such a member. Any member of the
24 council who is a representative of the lead agency

1 designated under section 635(b)(8) may not serve as
2 the chairperson of the council.

3 “(b) COMPOSITION.—

4 “(1) IN GENERAL.—The council shall be com-
5 posed as follows:

6 “(A) PARENTS.—At least 20 percent of
7 the members shall be parents of infants or tod-
8 dlers with disabilities or children with disabil-
9 ities aged 12 or younger, with knowledge of, or
10 experience with, programs for infants and tod-
11 dlers with disabilities. At least one such mem-
12 ber shall be a parent of an infant or toddler
13 with a disability or a child with a disability
14 aged 6 or younger.

15 “(B) SERVICE PROVIDERS.—At least 20
16 percent of the members shall be public or pri-
17 vate providers of early intervention services.

18 “(C) STATE LEGISLATURE.—At least one
19 member shall be from the State legislature.

20 “(D) PERSONNEL PREPARATION.—At least
21 one member shall be involved in personnel prep-
22 aration.

23 “(E) AGENCY FOR EARLY INTERVENTION
24 SERVICES.—At least one member shall be from
25 each of the State agencies involved in the provi-

1 sion of, or payment for, early intervention serv-
2 ices to infants and toddlers with disabilities and
3 their families and shall have sufficient authority
4 to engage in policy planning and implementa-
5 tion on behalf of such agencies.

6 “(F) AGENCY FOR PRESCHOOL SERV-
7 ICES.—At least one member shall be from the
8 State educational agency responsible for pre-
9 school services to children with disabilities and
10 shall have sufficient authority to engage in pol-
11 icy planning and implementation on behalf of
12 such agency.

13 “(G) AGENCY FOR INSURANCE.—At least
14 one member shall be from the agency respon-
15 sible for the State governance of insurance, es-
16 pecially in the area of health insurance.

17 “(H) HEAD START AGENCY.—A represent-
18 ative from a Head Start agency or program in
19 the State.

20 “(I) A representative from a State agency
21 responsible for child care.

22 “(2) OTHER MEMBERS.—The council may in-
23 clude other members selected by the Governor, in-
24 cluding a representative from the Bureau of Indian
25 Affairs, or where there is no BIA operated or funded

1 school, from the Indian Health Service or the tribe/
2 tribal council.

3 “(c) MEETINGS.—The council shall meet at least
4 quarterly and in such places as it deems necessary. The
5 meetings shall be publicly announced, and, to the extent
6 appropriate, open and accessible to the general public.

7 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
8 proval of the Governor, the council may prepare and ap-
9 prove a budget using funds under this part to conduct
10 hearings and forums, to reimburse members of the council
11 for reasonable and necessary expenses for attending coun-
12 cil meetings and performing council duties (including child
13 care for parent representatives), to pay compensation to
14 a member of the council if such member is not employed
15 or must forfeit wages from other employment when per-
16 forming official council business, to hire staff, and to ob-
17 tain the services of such professional, technical, and cleri-
18 cal personnel as may be necessary to carry out its func-
19 tions under this part.

20 “(e) FUNCTIONS OF COUNCIL.—

21 “(1) DUTIES.—The council shall—

22 “(A) advise and assist the lead agency des-
23 igned or established under section 635(b)(8)
24 in the performance of the responsibilities set
25 out in such section, particularly the identifica-

1 tion of the sources of fiscal and other support
2 for services for early intervention programs, as-
3 signment of financial responsibility to the ap-
4 propriate agency, and the promotion of the
5 interagency agreements;

6 “(B) advise and assist the lead agency in
7 the preparation of applications and amend-
8 ments thereto;

9 “(C) advise and assist the State edu-
10 cational agency regarding the transition of tod-
11 dlers with disabilities to services provided under
12 part B, to the extent such services are appro-
13 priate; and

14 “(D) prepare and submit an annual report
15 to the Governor and to the Secretary on the
16 status of early intervention programs for in-
17 fants and toddlers with disabilities and their
18 families operated within the State.

19 “(2) AUTHORIZED ACTIVITY.—The council may
20 advise and assist the lead agency and the State edu-
21 cational agency regarding the provision of appro-
22 priate services for children aged birth to 5, inclusive.

23 “(f) CONFLICT OF INTEREST.—No member of the
24 council shall cast a vote on any matter which would pro-
25 vide direct financial benefit to that member or otherwise

1 give the appearance of a conflict of interest under State
2 law.

3 **“SEC. 642. FEDERAL ADMINISTRATION.**

4 “Sections 616, 617, 618, and 620 shall, to the extent
5 not inconsistent with this part, apply to the program au-
6 thorized by this part, except that—

7 “(1) any reference in such sections to a State
8 educational agency shall be considered to be a ref-
9 erence to a State’s lead agency established or des-
10 igned under section 635(a)(8);

11 “(2) any reference in such sections to a local
12 educational agency, educational service agency, or a
13 State agency shall be considered to be a reference to
14 an early intervention service provider under this
15 part; and

16 “(3) any reference to the education of children
17 with disabilities or the education of all children with
18 disabilities shall be considered to be a reference to
19 the provision of appropriate early intervention serv-
20 ices to infants and toddlers with disabilities.

21 **“SEC. 643. ALLOCATION OF FUNDS.**

22 “(a) RESERVATION OF FUNDS FOR TERRITORIES.—

23 “(1) IN GENERAL.—From the sums appro-
24 priated to carry out this part for any fiscal year, the
25 Secretary may reserve up to one percent for pay-

1 ments to Guam, American Samoa, the Virgin Is-
2 lands, and the Commonwealth of the Northern Mari-
3 ana Islands in accordance with their respective
4 needs.

5 “(2) CONSOLIDATION OF FUNDS.—The provi-
6 sions of Public Law 95–134, permitting the consoli-
7 dation of grants to the territories, shall not apply to
8 funds those areas receive under this part.

9 “(b) PAYMENTS TO INDIANS.—

10 “(1) IN GENERAL.—The Secretary shall, sub-
11 ject to this subsection, make payments to the Sec-
12 retary of the Interior to be distributed to tribes,
13 tribal organizations (as defined under section 4 of
14 the Indian Self-Determination and Education Assist-
15 ance Act), or consortia of the above entities for the
16 coordination of assistance in the provision of early
17 intervention services by the States to infants and
18 toddlers with disabilities and their families on res-
19 ervations served by elementary and secondary
20 schools for Indian children operated or funded by
21 the Department of the Interior. The amount of such
22 payment for any fiscal year may not be more than
23 one percent of the aggregate of the amount available
24 to all States under this part for such fiscal year.

1 “(2) ALLOCATION.—For each fiscal year, the
2 Secretary of the Interior shall distribute the entire
3 payment received under paragraph (1) by providing
4 to each tribe, tribal organization, or consortium an
5 amount based on the number of infants and toddlers
6 residing on the reservation as determined annually
7 divided by the total of such children served by all
8 tribes, tribal organizations, or consortia.

9 “(3) INFORMATION.—To receive a payment
10 under this paragraph, the tribe, tribal organization,
11 or consortia shall submit such information to the
12 Secretary of the Interior as is needed to determine
13 the amounts to be allocated under paragraph (2).

14 “(4) USE OF FUNDS.—The funds received by a
15 tribe, tribal organization, or consortia shall be used
16 to assist States in child find, screening, and other
17 procedures for the early identification of Indian chil-
18 dren under 3 years of age and for parent training.
19 Such funds may also be used to provide early inter-
20 vention services in accordance with this part. Such
21 activities may be carried out directly or through con-
22 tracts or cooperative agreements with the BIA, local
23 educational agencies, and other public or private
24 nonprofit organizations. The tribe, tribal organiza-
25 tion, or consortia is encouraged to involve Indian

1 parents in the development and implementation of
2 these activities. The above entities shall, as appro-
3 priate, make referrals to local, State, or Federal en-
4 tities for the provision of services or further diag-
5 nosis.

6 “(5) REPORTS.—To be eligible to receive a
7 grant under paragraph (2), a tribe, tribal organiza-
8 tion, or consortia shall make a biennial report to the
9 Secretary of the Interior of activities undertaken
10 under this subsection, including the number of con-
11 tracts and cooperative agreements entered into, the
12 number of children contacted and receiving services
13 for each year, and the estimated number of children
14 needing services during the 2 years following the
15 year in which the report is made. The Secretary of
16 the Interior shall include a summary of this informa-
17 tion on a biennial basis to the Secretary of Edu-
18 cation along with such other information as required
19 under section 611(f)(3)(D). The Secretary of Edu-
20 cation may require any additional information from
21 the Secretary of the Interior.

22 “(6) PROHIBITED USES OF FUNDS.—None of
23 the funds under this subsection may be used by the
24 Secretary of the Interior for administrative pur-

1 poses, including child count, and the provision of
2 technical assistance.

3 “(c) STATE ALLOTMENTS.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graphs (2), (3), and (4), from the funds remaining
6 for each fiscal year after the reservation and pay-
7 ments under subsections (a) and (b), the Secretary
8 shall first allot to each State an amount that bears
9 the same ratio to the amount of such remainder as
10 the number of infants and toddlers in the State
11 bears to the number of infants and toddlers in all
12 States.

13 “(2) MINIMUM ALLOTMENTS.—Except as pro-
14 vided in paragraphs (3) and (4), no State shall re-
15 ceive an amount under this section for any fiscal
16 year that is less than the greatest of—

17 “(A) one-half of one percent of the remain-
18 ing amount described in paragraph (1); or

19 “(B) \$500,000.

20 “(3) SPECIAL RULE FOR 1997 THROUGH 1999.—

21 “(A) IN GENERAL.—Except as provided in
22 paragraph (4), no State may receive an amount
23 under this section for any of the fiscal years
24 1997 through 1999 that is less than the sum of

1 the amount such State received for fiscal year
2 1994 under—

3 “(i) part H (as in effect on the day
4 before the date of the enactment of the
5 IDEA Improvement Act of 1996); and

6 “(ii) subpart 2 of part D of chapter 1
7 of title I of the Elementary and Secondary
8 Education Act of 1965 (as in effect on the
9 day before the date of the enactment of the
10 Improving America’s Schools Act of 1994)
11 for children with disabilities under 3 years
12 of age.

13 “(B) EXCEPTION.—If, for fiscal year 1998
14 or 1999, the number of infants and toddlers in
15 a State, as determined under paragraph (1), is
16 less than the number of infants and toddlers so
17 determined for fiscal year 1994, the amount de-
18 termined under subparagraph (A) for the State
19 shall be reduced by the same percentage by
20 which the number of such infants and toddlers
21 so declined.

22 “(4) RATABLE REDUCTION.—

23 “(A) IN GENERAL.—If the sums made
24 available under this part for any fiscal year are
25 insufficient to pay the full amounts that all

1 States are eligible to receive under this sub-
2 section for such year, the Secretary shall rat-
3 ably reduce the allocations to such States for
4 such year.

5 “(B) ADDITIONAL FUNDS.—If additional
6 funds become available for making payments
7 under this subsection for a fiscal year, alloca-
8 tions that were reduced under subparagraph
9 (A) shall be increased on the same basis as
10 such allocations were reduced.

11 “(5) DEFINITIONS.—For the purpose of this
12 subsection—

13 “(A) the terms ‘infants’ and ‘toddlers’
14 mean children under 3 years of age; and

15 “(B) the term ‘State’ means each of the 50
16 States, the District of Columbia, and the Com-
17 monwealth of Puerto Rico.

18 “(d) REALLOTMENT OF FUNDS.—If a State elects
19 not to receive its allotment under subsection (c), the Sec-
20 retary shall reallocate, among the remaining States, amounts
21 from such State in accordance with such subsection.

22 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

23 “For the purpose of carrying out this part, there are
24 authorized to be appropriated such sums as may be nec-
25 essary for each of the fiscal years 1997 through 2001.

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

3 **“SEC. 651. PURPOSE OF PART.**

4 “The purpose of this part is to support national,
5 State, and local activities aimed at improving educational,
6 early intervention, and transitional services for children
7 with disabilities.

8 **“Subpart 1—General Provisions and National**
9 **Research and Improvement Activities**

10 **“SEC. 661. COMPREHENSIVE PLAN.**

11 “(a) IN GENERAL.—The Secretary shall develop and
12 implement a comprehensive plan for ongoing activities
13 conducted by the Secretary under this part.

14 “(b) USE OF KNOWLEDGE IN DEVELOPING PLAN.—
15 To the maximum extent appropriate, the Secretary shall
16 ensure that the plan is based upon the knowledge gained
17 from research on practices that have been proven effective
18 in improving the achievement of children with disabilities.

19 “(c) CONSULTATION.—In developing the plan, the
20 Secretary shall consult the following persons:

21 “(1) Individuals with disabilities.

22 “(2) Parents of children with disabilities.

23 “(3) Representatives of State and local edu-
24 cational agencies and educational service agencies.

25 “(4) Private schools.

26 “(5) Institutions of higher education.

1 “(6) Other Federal agencies.

2 “(7) The National Council on Disability.

3 “(8) National organizations with an interest in,
4 and expertise in, providing services to children with
5 disabilities and their families.

6 “(9) Any other professionals determined appro-
7 priate by the Secretary.

8 “(d) DEADLINE.—The plan shall be developed not
9 later than the date that is 12 months after the date of
10 the enactment of the IDEA Improvement Act of 1996.

11 **“SEC. 662. PRIORITIES.**

12 “(a) IN GENERAL.—In making awards under this
13 part, the Secretary may, without regard to the rule mak-
14 ing procedures under section 553 of title 5, United States
15 Code, limit such awards to, or otherwise give priority to—

16 “(1) projects that address the improvement of
17 the academic performance of children with disabil-
18 ities;

19 “(2) projects that address one or more—

20 “(A) age ranges;

21 “(B) disabilities;

22 “(C) grades in school;

23 “(D) types of educational placements or
24 early intervention environments;

25 “(E) types of services; or

- 1 “(F) content areas such as reading;
- 2 “(3) projects that address the needs of children
- 3 based on the severity of their disability;
- 4 “(4) projects that address the needs of—
- 5 “(A) low-achieving students;
- 6 “(B) underserved populations;
- 7 “(C) children from low-income families;
- 8 “(D) children with limited English pro-
- 9 ficiency;
- 10 “(E) unserved and underserved areas;
- 11 “(F) particular types of geographic areas,
- 12 such as inner-city or rural areas; or
- 13 “(G) institutionalized children in juvenile
- 14 and adult correctional institutions;
- 15 “(5) any activity that is expressly authorized in
- 16 this title;
- 17 “(6) a large-scale longitudinal study designed to
- 18 provide information on the long-term impact of edu-
- 19 cation agency disciplinary procedures on children
- 20 with disabilities;
- 21 “(7) research and development projects includ-
- 22 ing—
- 23 “(A) projects that advance knowledge
- 24 about—

1 “(i) teaching and learning practices,
2 and assessment techniques, instruments,
3 and strategies, including behavioral strate-
4 gies, that lead to improved results for chil-
5 dren with disabilities;

6 “(ii) the developmental and learning
7 characteristics of children with disabilities
8 in a manner that will improve the design
9 and effectiveness of interventions and in-
10 struction; or

11 “(iii) the coordination of education
12 with health and social services;

13 “(B) large-scale longitudinal studies de-
14 signed to produce information on the long-term
15 impact of early intervention and education on
16 results for individuals with disabilities;

17 “(C) model demonstration projects to
18 apply and test research findings in typical serv-
19 ice settings to determine the usability, effective-
20 ness, and general applicability of such research
21 findings in such areas as improving instruc-
22 tional methods, curricula, and tools such as
23 textbooks, media, and other materials; and

1 “(D) projects which apply research and
2 other knowledge to improve educational results
3 for children with disabilities by—

4 “(i) synthesizing useful research and
5 educational products;

6 “(ii) ensuring that such research and
7 products are in appropriate formats for
8 distribution to administrators, teachers,
9 parents, and individuals with disabilities;
10 or

11 “(iii) making such research and prod-
12 ucts available through libraries, electronic
13 networks, parent training projects, and
14 other information sources, including the
15 National Information Dissemination Sys-
16 tem under part D of title IX of Public Law
17 103–227;

18 “(8) projects which provide technical assistance
19 to—

20 “(A) States—

21 “(i) to link States to other technical
22 assistance resources, including special and
23 general education resources; or

1 “(ii) in gaining access to information,
2 including information on research and best
3 practices; or

4 “(B) State educational agencies, State lead
5 agencies serving infants and toddlers with dis-
6 abilities under part C, and other organizations
7 and agencies that play a critical role in provid-
8 ing for the participation of children with dis-
9 abilities in State and local assessments;

10 “(9) activities that—

11 “(A) have broad applicability in improving
12 professional development practices; and

13 “(B) support in-service and pre-service
14 preparation for personnel who provide, and who
15 will provide, educational, related, and early
16 intervention services to children with low-inci-
17 dence disabilities;

18 “(10) activities to produce, and promote the use
19 of, knowledge to address the special needs of chil-
20 dren who have a high likelihood of needing special
21 education and related services in order to reduce,
22 through early intervention, the need for special edu-
23 cation services later in life; and

24 “(11) educational media activities including—

1 “(A) video description, open captioning, or
2 closed captioning of educational materials;

3 “(B) distribution of captioned and de-
4 scribed educational materials and videos; and

5 “(C) recording free educational materials,
6 including textbooks, for visually impaired and
7 print-disabled students in elementary, second-
8 ary, post-secondary, and graduate schools.

9 “(b) DEFINITION.—As used in this section, the term
10 ‘low-incidence disability’ means—

11 “(1) a visual impairment, a hearing impair-
12 ment, or simultaneous visual and hearing impair-
13 ments;

14 “(2) a significant cognitive impairment; or

15 “(3) any impairment for which a small number
16 of personnel, with highly specialized skills and
17 knowledge, are needed nationwide in order for all
18 children with disabilities who have the impairment to
19 receive early intervention services or a free appro-
20 priate public education.

21 **“SEC. 663. PEER REVIEW.**

22 “(a) IN GENERAL.—The Secretary shall use a panel
23 of experts who are competent, by virtue of their training,
24 expertise, or experience, to evaluate an application under

1 this part that requests more than \$75,000 in Federal fi-
2 nancial assistance.

3 “(b) COMPOSITION OF PANEL.—A majority of a
4 panel described in subsection (a) shall be composed of in-
5 dividuals who are not employees of the Federal Govern-
6 ment.

7 “(c) PAYMENT OF FEES AND EXPENSES OF CERTAIN
8 MEMBERS.—The Secretary may use available funds ap-
9 propriated to carry out this part to pay the expenses and
10 fees of panel members who are not employees of the Fed-
11 eral Government.

12 **“SEC. 664. ELIGIBLE APPLICANTS.**

13 “Except as otherwise provided in this part, the per-
14 sons who, and the agencies that, may apply for receipt
15 of grants, contracts, or cooperative agreements under this
16 part are the following:

17 “(1) Institutions of higher education.

18 “(2) State educational agencies.

19 “(3) Local educational agencies.

20 “(4) Educational service agencies.

21 “(5) Other public agencies.

22 “(6) Private nonprofit organizations.

23 “(7) Indian tribes.

24 “(8) For-profit organizations.

1 **“SEC. 665. APPLICANT AND RECIPIENT RESPONSIBILITIES.**

2 “(a) GENERAL REQUIREMENTS ON APPLICANTS AND
3 RECIPIENTS.—The Secretary may not make a grant to,
4 or enter into a contract or cooperative agreement with,
5 a person or agency under this part unless—

6 “(1) the person or agency involves individuals
7 with disabilities, and parents of children with dis-
8 abilities, in planning, implementing, and evaluating
9 activities conducted under the grant, contract, or
10 agreement;

11 “(2) the person or agency, where appropriate,
12 evaluates the potential for replication and wide-
13 spread adoption of such activities; and

14 “(3) the person or agency prepares their find-
15 ings and work product in a format useful for a spe-
16 cific audience specified by the Secretary, such as
17 parents, administrators, teachers, early intervention
18 personnel, related services personnel, or individuals
19 with disabilities.

20 “(b) ADDITIONAL REQUIREMENTS IMPOSED AT DIS-
21 CRETION OF SECRETARY.—The Secretary may require
22 that a person who, or agency that, is awarded a grant,
23 contract, or cooperative agreement under this part—

24 “(1) assume a portion of the cost of carrying
25 out the grant, contract, or agreement;

1 “(2) disseminate the findings and work product
2 of the person or agency; and

3 “(3) collaborate with other such persons and
4 agencies.

5 **“SEC. 666. INDIRECT COSTS.**

6 “The Secretary—

7 “(1) may not permit any recipient of Federal
8 funds under this part to use more than 25 percent
9 of such funds for indirect costs; and

10 “(2) may further limit the extent to which any
11 such recipient may use such funds for such costs.

12 **“SEC. 667. PROGRAM EVALUATION.**

13 “The Secretary may use funds appropriated to carry
14 out this part to evaluate any activity carried out under
15 this part.

16 **“SEC. 668. NATIONAL ASSESSMENT.**

17 “(a) PURPOSE OF ASSESSMENT.—The Secretary
18 shall carry out a national assessment of activities carried
19 out with Federal funds under this title in order—

20 “(1) to determine the effectiveness of the title
21 in achieving the purposes of the title;

22 “(2) to provide information to the President,
23 the Congress, the States, local educational agencies,
24 and the public on how to implement the title more
25 effectively; and

1 “(3) to provide the President and the Congress
2 with information that will be useful in developing
3 legislation to achieve the purposes of this title more
4 effectively.

5 “(b) CONSULTATION.—The Secretary shall plan, re-
6 view, and conduct the national assessment under this sec-
7 tion in consultation with researchers, State practitioners,
8 local practitioners, parents of children with disabilities, in-
9 dividuals with disabilities, and other appropriate individ-
10 uals.

11 “(c) SCOPE OF ASSESSMENT.—The national assess-
12 ment shall examine how well schools, local educational
13 agencies, States, other recipients of assistance under this
14 title, and the Secretary are achieving the purposes of this
15 title, including—

16 “(1) the performance of children with disabil-
17 ities in general scholastic activities and assessments
18 as compared to nondisabled children;

19 “(2) providing for the participation of children
20 with disabilities in the general education curriculum;

21 “(3) helping children with disabilities make suc-
22 cessful transitions from—

23 “(A) early intervention services to pre-
24 school education;

1 “(B) preschool education to elementary
2 school; and

3 “(C) secondary school to adult life;

4 “(4) placing and serving children with disabili-
5 ties, including children from underserved popu-
6 lations, in the least restrictive environment appro-
7 priate;

8 “(5) preventing children with disabilities, espe-
9 cially children with emotional disturbances and spe-
10 cific learning disabilities, from dropping out of
11 school;

12 “(6) assessing the use of disciplinary measures,
13 and the effect of such use, with children with dis-
14 abilities as compared to nondisabled children;

15 “(7) coordinating services provided under this
16 title with each other, with other educational and
17 pupil services (including preschool services), and
18 with health and social services funded from other
19 sources;

20 “(8) addressing the participation of parents of
21 children with disabilities in the education of their
22 children; and

23 “(9) resolving disagreements between education
24 personnel and parents through activities such as me-
25 diation.

1 “(d) INTERIM AND FINAL REPORTS.—The Secretary
2 shall submit to the President and the Congress—

3 “(1) an interim report that summarizes the pre-
4 liminary findings of the assessment not later than
5 October 1, 1998; and

6 “(2) a final report of the findings of the assess-
7 ment not later than October 1, 2000.

8 **“SEC. 669. AUTHORIZATION OF APPROPRIATIONS.**

9 “(a) IN GENERAL.—There are authorized to be ap-
10 propriated to carry out this subpart such sums as may
11 be necessary for each of the fiscal years 1997 through
12 2001.

13 “(b) MINIMUM AMOUNTS.—Subject to subsection (c),
14 the Secretary shall ensure that, for each fiscal year, at
15 least the following amounts are provided under this part
16 to address the following needs:

17 “(1) \$12,832,000 to address the educational,
18 related services, transitional, and early intervention
19 needs of children with deaf-blindness.

20 “(2) \$4,000,000 to address the postsecondary,
21 vocational, technical, continuing, and adult edu-
22 cation needs of individuals with deafness.

23 “(c) RATABLE REDUCTION.—If the total amount ap-
24 propriated to carry out this part for any fiscal year is less

1 than \$135,600,000, the amounts listed in subsection (b)
2 shall be ratably reduced.

3 **“Subpart 2—State Program Improvement Grants for**
4 **Children with Disabilities**

5 **“SEC. 671. PURPOSE.**

6 “The purpose of this subpart is to assist States in
7 reforming and improving their systems for providing edu-
8 cational and early intervention services, particularly their
9 systems for professional development, to improve the
10 achievement of children with disabilities.

11 **“SEC. 672. ELIGIBILITY AND COLLABORATIVE PROCESS.**

12 “(a) ELIGIBLE APPLICANTS.—A State may apply for
13 a grant under this subpart for a grant period that is not
14 less than one year, but is not greater than 4 years.

15 “(b) CERTIFICATION THAT COLLABORATIVE PROC-
16 ESS HAS BEEN USED.—A State that desires to receive
17 a grant under this subpart shall certify to the Secretary
18 that a collaborative process with persons described in sub-
19 section (c) has been used in developing the State improve-
20 ment plan described in section 673.

21 “(c) COLLABORATIVE PROCESS PARTICIPANTS.—

22 “(1) REQUIRED PARTICIPANTS.—The collabo-
23 rative process referred to in subsection (b) is a State
24 process for making decisions which includes as par-
25 ticipants, at a minimum, the Governor of the State

1 and representatives, appointed by such Governor,
2 of—

3 “(A) parents of children with disabilities;

4 “(B) parents of nondisabled children;

5 “(C) individuals with disabilities;

6 “(D) organizations representing individuals
7 with disabilities and their parents;

8 “(E) community-based and other nonprofit
9 organizations related to the education and em-
10 ployment of individuals with disabilities;

11 “(F) the lead State agency official or offi-
12 cials for part C;

13 “(G) local educational agencies;

14 “(H) general and special education teach-
15 ers;

16 “(I) the State educational agency;

17 “(J) the State advisory panel established
18 under part B; and

19 “(K) the State interagency coordinating
20 council established under part C.

21 “(2) OPTIONAL PARTICIPANTS.—The collabo-
22 rative process may include, at the Governor’s discre-
23 tion, representatives, appointed by the Governor,
24 of—

1 “(A) individuals knowledgeable about voca-
2 tional education;

3 “(B) the State agency for higher edu-
4 cation;

5 “(C) institutions of higher education;

6 “(D) schools of education;

7 “(E) the State vocational rehabilitation
8 agency;

9 “(F) public agencies with jurisdiction in
10 the areas of health, mental health, social serv-
11 ices, and juvenile justice; and

12 “(G) any other individuals designated by
13 the Governor.

14 **“SEC. 673. STATE IMPROVEMENT PLANS.**

15 “(a) IN GENERAL.—A State that desires to receive
16 a grant under this subpart shall submit to the Secretary
17 a State improvement plan that is integrated, to the maxi-
18 mum extent possible, with State plans under the Elemen-
19 tary and Secondary Education Act of 1965 and the Reha-
20 bilitation Act of 1973, as appropriate.

21 “(b) DETERMINING CHILD AND PROGRAM NEEDS.—

22 “(1) IN GENERAL.—Each State improvement
23 plan shall identify those critical aspects of early
24 intervention, general education, and special edu-
25 cation programs (including professional development,

1 based on an assessment of State and local needs)
2 that must be improved to enable children with dis-
3 abilities to meet the goals established by the State
4 under section 612(a)(14).

5 “(2) REQUIRED ANALYSES.—To meet the re-
6 quirement of paragraph (1), the State improvement
7 plan shall include at least—

8 “(A) an analysis of all information, reason-
9 ably available to the State, on the performance
10 of children with disabilities in the State, includ-
11 ing—

12 “(i) their performance on State as-
13 sessments and other performance indica-
14 tors established for all children, including
15 drop-out rates and graduation rates;

16 “(ii) their participation in postsecond-
17 ary education and employment; and

18 “(iii) how their performance on the
19 assessments and indicators described in
20 clause (i) compares to that of non-disabled
21 children;

22 “(B) an analysis of State and local needs
23 for professional development for personnel to
24 serve children with disabilities that includes, at
25 a minimum, relevant information on current

1 and anticipated personnel shortages, and on the
2 extent of certification or retraining necessary to
3 eliminate such shortages, that is based, to the
4 maximum extent possible, on existing assess-
5 ments of personnel needs; and

6 “(C) a summary of the information and
7 analysis provided by the State to the Secretary
8 under parts B and C on the effectiveness of the
9 State’s systems of early intervention, special
10 education, and general education in meeting the
11 needs of children with disabilities.

12 “(c) IMPROVEMENT STRATEGIES.—Each State im-
13 provement plan shall—

14 “(1) describe the strategies the State will use to
15 address the needs identified under subsection (b)(1),
16 including—

17 “(A) how it will hold school districts and
18 schools accountable for educational progress of
19 children with disabilities;

20 “(B) how it will provide technical assist-
21 ance to school districts and schools to improve
22 results for children with disabilities;

23 “(C) how it will address the identified
24 needs for in-service and pre-service preparation
25 to ensure that all personnel who work with chil-

1 dren with disabilities (including both profes-
2 sional and paraprofessional personnel who pro-
3 vide early intervention services, special edu-
4 cation, general education, or related services)
5 have the skills and knowledge necessary to meet
6 the needs of children with disabilities, including
7 a description of how—

8 “(i) the State will prepare general
9 education and special education personnel
10 with the content knowledge and collabo-
11 rative skills needed to meet the needs of
12 children with disabilities, including how the
13 State will work with other States on com-
14 mon certification criteria;

15 “(ii) the State will prepare profes-
16 sionals and paraprofessionals in the area of
17 early intervention with the content knowl-
18 edge and collaborative skills needed to
19 meet the needs of infants and toddlers
20 with disabilities;

21 “(iii) the State will work with institu-
22 tions of higher education and other entities
23 that prepare (on both a pre-service and an
24 in-service basis) personnel who work with
25 children with disabilities to ensure that

1 such institutions and entities develop the
2 capacity to support professional develop-
3 ment programs which reflect actual edu-
4 cation practices and techniques;

5 “(iv) the State’s requirements for li-
6 censure of teachers and administrators, in-
7 cluding certification and recertification,
8 will be modified to support an adequate
9 supply of personnel with the necessary
10 skills and knowledge (including, where ap-
11 propriate, strategies for developing recip-
12 rocal certification agreements and common
13 certification requirements with other
14 States); and

15 “(v) the State will work to develop
16 collaborative agreements with other States
17 for the joint support and development of
18 programs to prepare personnel for which
19 there is not sufficient demand within a sin-
20 gle State to justify support or development
21 of such a program of preparation;

22 “(D) how it will work in collaboration with
23 other States, particularly neighboring States, to
24 address the lack of uniformity and reciprocity

1 in the credentialing of teachers and other per-
2 sonnel;

3 “(E) strategies that will address systemic
4 problems identified in Federal compliance re-
5 views, including shortages of qualified person-
6 nel; and

7 “(F) how the State will assess, on a regu-
8 lar basis, the extent to which the strategies im-
9 plemented under this subpart have been effec-
10 tive; and

11 “(2) describe how the improvement strategies
12 under paragraph (1) will be coordinated with public
13 and private sector resources.

14 “(d) REPORTING PROCEDURES.—Each State that re-
15 ceives a grant under this subpart shall submit perform-
16 ance reports to the Secretary pursuant to a schedule to
17 be determined by the Secretary, but not more frequently
18 than annually.

19 “(e) PLAN APPROVAL.—The Secretary shall approve
20 a State improvement plan under this section if it—

21 “(1) meets the requirements of this part;

22 “(2) has been developed in accordance with the
23 requirements of section 672; and

1 “(3) in the opinion of the Secretary, has a rea-
2 sonable chance of achieving the purposes of the
3 grant.

4 “(f) PLAN AMENDMENTS.—

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

13 “(2) MODIFICATIONS REQUIRED BY SEC-
14 RETARY.—The Secretary may require a State to
15 amend its State improvement plan at any time as a
16 result of the Secretary’s compliance reviews under
17 parts B and C. The Secretary may not provide fur-
18 ther funding under this subpart to the State until
19 such amendments are made.

20 **“SEC. 674. USE OF FUNDS.**

21 “(a) IN GENERAL.—A State that receives a grant
22 under this subpart may use the grant to carry out any
23 activities that are described in the State improvement plan
24 and that are consistent with the purpose of this subpart.
25 Such activities may include the awarding of subgrants, but

1 only if the subgrants are made to local educational agen-
2 cies. Any such local educational agency may award sub-
3 grants to any person. Such activities may also include the
4 awarding of contracts to appropriate entities.

5 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
6 MENT.—A State that receives a grant under this subpart
7 shall use not less than 75 percent of the funds it receives
8 under the grant for any fiscal year to ensure that there
9 is a sufficient supply of personnel who have the skills and
10 knowledge necessary to enable children with disabilities to
11 meet developmental goals and to meet the needs of such
12 children, including working with other States on common
13 certification criteria.

14 “(c) GRANTS TO TERRITORIES.—The provisions of
15 Public Law 95–134, permitting the consolidation of grants
16 to the territories, shall not apply to funds received under
17 this subpart.

18 **“SEC. 675. MINIMUM STATE ALLOTMENTS.**

19 “A State that receives a grant under this subpart
20 shall receive an amount that is—

21 “(1) not less than \$200,000, in the case of the
22 50 States, the District of Columbia, and the Com-
23 monwealth of Puerto Rico; and

24 “(2) not less than \$40,000, in the case of a ter-
25 ritory.

1 **“SEC. 676. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out
3 this subpart such sums as may be necessary for each of
4 the fiscal years 1997 through 2001.

5 **“Subpart 3—Parent Training**

6 **“SEC. 681. GRANTS FOR PARENT TRAINING AND INFORMA-**
7 **TION CENTERS.**

8 “(a) PROGRAM AUTHORIZED.—The Secretary may
9 make grants to, and enter into contracts and cooperative
10 agreements with, parent organizations to support parent
11 training and information centers to carry out activities
12 under this subpart.

13 “(b) REQUIRED ACTIVITIES.—A parent training and
14 information center that receives assistance under this sec-
15 tion shall—

16 “(1) assist parents to understand the availabil-
17 ity of, and how effectively to use, procedural safe-
18 guards under this title, including the use of alter-
19 native methods of dispute resolution, such as medi-
20 ation;

21 “(2) serve the parents of children with the full
22 range of disabilities; and

23 “(3) annually report to the Secretary on—

24 “(A) the number of parents to whom it
25 provided information and training in the most
26 recently concluded fiscal year; and

1 “(B) the effectiveness of strategies used to
2 reach and serve parents of children with disabili-
3 ties, including underserved parents of children
4 with disabilities.

5 “(c) *OPTIONAL ACTIVITIES.*—A parent training and
6 information center that receives assistance under this sec-
7 tion may—

8 “(1) provide information to teachers and other
9 professionals who provide special education and re-
10 lated services to children with disabilities;

11 “(2) assist students with disabilities to under-
12 stand their rights and responsibilities under section
13 615(j) on reaching the age of majority; and

14 “(3) establish cooperative partnerships with
15 parent organizations, and other organizations assist-
16 ing families of children with disabilities, in the com-
17 munity.

18 “(d) *APPLICATION REQUIREMENTS.*—Each applica-
19 tion for assistance under this section shall identify with
20 specificity the special efforts that the applicant will under-
21 take to—

22 “(1) ensure that the needs for training and in-
23 formation of parents of underserved children with
24 disabilities in the area to be served are effectively
25 met; and

1 “(2) work with community-based organizations.

2 “(e) DISTRIBUTION OF FUNDS.—

3 “(1) NUMBER OF AWARDS.—The Secretary
4 shall make at least one award to a parent organiza-
5 tion in each State, unless the Secretary does not re-
6 ceive an application from such an organization in
7 each State of sufficient quality to warrant approval.

8 “(2) ENSURING EFFECTIVE ASSISTANCE.—The
9 Secretary may select among applications submitted
10 by parent organizations in a State in a manner that
11 ensures the most effective assistance to parents, in-
12 cluding parents in urban and rural areas, in the
13 State.

14 **“SEC. 682. TECHNICAL ASSISTANCE FOR PARENT TRAINING**
15 **AND INFORMATION CENTERS.**

16 “(a) PROGRAM AUTHORIZED.—The Secretary may
17 provide technical assistance for developing, assisting, and
18 coordinating parent training and information programs
19 carried out by parent training and information centers re-
20 ceiving assistance under section 681.

21 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
22 provide technical assistance to a parent training and infor-
23 mation center under this section in areas such as—

24 “(1) effective coordination of parent training ef-
25 forts;

1 “(2) dissemination of information;

2 “(3) evaluation by the center of itself;

3 “(4) promotion of the use of technology, includ-
4 ing assistive technology devices and assistive tech-
5 nology services;

6 “(5) reaching underserved populations;

7 “(6) including children with disabilities in gen-
8 eral education programs;

9 “(7) facilitation of transitions from—

10 “(A) early intervention services to pre-
11 school;

12 “(B) preschool to school; and

13 “(C) secondary school to postsecondary en-
14 vironments; and

15 “(8) promotion of alternative methods of dis-
16 pute resolution.

17 **“SEC. 683. AUTHORIZATION OF APPROPRIATIONS.**

18 “There are authorized to be appropriated to carry out
19 this subpart such sums as may be necessary for each of
20 the fiscal years 1997 through 2001.”.

1 **TITLE II—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 201. AMENDMENT TO ESEA TO COORDINATE IDEA AND**
4 **SCHOOLWIDE PROGRAMS.**

5 Section 1114(a)(4) of the Elementary and Secondary
6 Education Act of 1965 (20 U.S.C. 6314(a)(4)) is amend-
7 ed—

8 (1) in subparagraph (A), by striking “Secretary
9 (other than formula or discretionary grant programs
10 under the Individuals with Disabilities Education
11 Act),” and inserting “Secretary,”; and

12 (2) in subparagraph (B), by inserting “special
13 education and related services under an individual-
14 ized education program, procedural safeguards,”
15 after “civil rights,”.

16 **SEC. 202. EFFECTIVE DATES.**

17 (a) PARTS A, B, AND C.—Parts A, B, and C of the
18 Individuals with Disabilities Education Act, as amended
19 by title I, shall take effect on July 1, 1997.

20 (b) PART D.—Part D of such Act, as amended by
21 title I, shall take effect on October 1, 1997.

22 **SEC. 203. REPEALERS.**

23 (a) PART I.—Part I of the Individuals with Disabil-
24 ities Education Act is hereby repealed.

1 (b) PART H.—Effective July 1, 1997, part H of such
2 Act is hereby repealed.

3 (c) PARTS E, F, AND G.—Effective October 1, 1997,
4 parts E, F, and G of such Act are hereby repealed.

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