108TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 108–77

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

APRIL 29, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BOEHNER, from the Committee on Education and the Workforce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1350]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Education Results for Children With Disabilities Act of 2003".

TITLE I—GENERAL PROVISIONS

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

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

"SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

"(a) SHORT TITLE.—This Act may be cited as the 'Individuals with Disabilities Education Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"PART A—GENERAL PROVISIONS

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

"Sec. 602. Definitions.
"Sec. 603. Office of Special Education Programs.
"Sec. 604. Abrogation of State sovereign immunity.
"Sec. 605. Acquisition of equipment; construction or alteration of facilities.
"Sec. 606. Employment of individuals with disabilities.
"Sec. 607. Requirements for prescribing regulations.
"Sec. 608. State administration.

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

"Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
"Sec. 612. State eligibility.
"Sec. 613. Local educational agency eligibility.
"Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
"Sec. 615. Procedural safeguards.
"Sec. 616. Monitoring, enforcement, withholding, and judicial review.
"Sec. 617. Administration.
"Sec. 618. Program information.
"Sec. 619. Preschool grants.

"PART C—INFANTS AND TODDLERS WITH DISABILITIES

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

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

"Sec. 651. Findings.

"SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

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

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

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

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

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

"(c) FINDINGS.—Congress finds the following:

"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

"(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the special educational needs of millions of children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.

"(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

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

"(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order—

"(i) to meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

"(ii) to be prepared to lead productive and independent adult lives, to the maximum extent possible;

"(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

"(C) coordinating this Act with other local, State, and Federal school improvement efforts, including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

"(D) supporting high-quality, intensive professional development for personnel who work with children with disabilities;

"(E) providing incentives for scientifically based reading programs and prereferral intervention services to reduce the need to label children as disabled in order to address their learning needs;

"(F) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

"(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children with disabilities.

"(5) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government has a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

"(6) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

"(7)(A) The Federal Government must respond to the growing needs of an increasingly diverse society.

"(B) America's ethnic profile is rapidly changing. In the year 2000, nearly one of every three persons in America was a member of a minority group or was limited English proficient.

"(C) Minority children comprise an increasing percentage of public school students.

"(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

"(8)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

"(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

"(C) This poses a special challenge for special education in the referral, assessment, and provision of services for our Nation's students from non-English language backgrounds.

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

"(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

"(C) African American children are overidentified as having mental retardation and emotional disturbance at rates greater than their white counterparts.

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

"(E) Studies have found that schools with predominantly Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

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

"(B) The opportunity for full participation by minority individuals, organizations, and historically black colleges and universities in awards for grants and contracts, boards of organizations receiving assistance under this Act, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

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

"(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

"(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

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

"(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

"(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

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

"SEC. 602. DEFINITIONS.

"Except as otherwise provided, as used in this Act:

"(1) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

"(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

"(3) CHILD WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'child with a disability' means a child—

"(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(ii) who, by reason thereof, needs special education and related services.

"(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 or any subset of that age range, including ages 3

through 5, may, at the discretion of the State and the local educational agency, include a child—

"(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

"(ii) who, by reason thereof, needs special education and related services.

"(4) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—

"(A) means a regional public multiservice agency—

"(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

"(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

"(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

"(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

"(6) EQUIPMENT.—The term 'equipment' includes—

"(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

"(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

"(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

"(A) amounts received—

"(i) under part B of this title;

"(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

"(iii) under title III of that Act; and

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

"(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—

"(A) have been provided at public expense, under public supervision and direction, and without charge;

"(B) meet the standards of the State educational agency;

"(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

"(D) are provided in conformity with the individualized education program required under section 614(d).

"(9) HIGHLY QUALIFIED.—The term 'highly qualified' has the same meaning as that term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(10) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.

"(11) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

"(12) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

"(13) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given such term in section 636.

"(14) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

"(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

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

"(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

"(16) LOCAL EDUCATIONAL AGENCY.—

"(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes—

"(i) an educational service agency, as defined in paragraph (4); and

"(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(17) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or, in the case of a child, the language normally used by the parents of the child.

"(18) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(19) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(20) PARENT.—The term 'parent'—

"(A) includes a legal guardian; and

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

"(21) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given that term in section 672(g).

"(22) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under sections 672 and 673.

"(23) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

"(24) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

"(25) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(26) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.

"(27) SPECIFIC LEARNING DISABILITY.—

"(A) IN GENERAL.—The term 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

"(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

"(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

"(28) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(30) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

"(31) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a child with a disability that—

"(A) is designed within a results-oriented process, that is focused on improving the academic and developmental achievement of the child with a disability to facilitate the child's move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) is based upon the individual child's needs, taking into account the child's skills, preferences, and interests; and

"(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

"(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

"(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

"(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.".

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

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

"SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

"(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

"(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

"(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

"(2) appendix A of part 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

"SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

"The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities, particularly as teachers, related services personnel, early intervention providers, and administrators, in programs assisted under this Act.

"SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

"(a) IN GENERAL.—The Secretary may issue regulations under this Act only to the extent that such regulations are reasonably necessary to ensure that there is compliance with the specific requirements of this Act.

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

"(1) violate or contradict any provision of this Act; and

"(2) procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

"(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 60 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

"(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including on issues of national significance) that—

"(1) would violate or contradict any provision of this Act; or

"(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.

"(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

"(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

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

"(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

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

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

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

"(2) is provided as informal guidance and represents only the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented in the original question.".

SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

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

"SEC. 608. STATE ADMINISTRATION.

"(a) RULEMAKING.—Each State that receives funds under this Act shall—

"(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and

"(2) minimize the number of rules, regulations, and policies to which the State's local educational agencies and schools are subject to under this Act.

"(b) SUPPORT AND FACILITATION.—All State rules, regulations, and policies relating to this Act shall support and facilitate local educational agency and school-level

systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.".

SEC. 104. GAO REVIEW; REPORT.

(a) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 105. GAO REVIEW OF CERTAIN STATE DEFINITIONS AND EVALUATION PROCESSES.

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

(1) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms "emotional disturbance", "other health impairments", and "specific learning disability"; and

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

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 106. ADDITIONAL GAO STUDY AND REPORT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 107. STUDY ON LIMITED ENGLISH PROFICIENT STUDENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

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

"SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS TO STATES.—

"(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

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

"(A) the number of children with disabilities in the State who are receiving special education and related services—

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

"(ii) aged 6 through 21; multiplied by

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

"(3) LIMITATION.—Notwithstanding subparagraphs (A) and (B) of paragraph (2), the maximum amount of the grant a State may receive under this section for a fiscal year may not be based on the number of children ages 3 through 17, inclusive, in excess of 13.5 percent of the number of all children in that age range in the State.

"(b) OUTLYING AREAS.—

"(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than one percent, which shall be used to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21.

"(2) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas under this section.

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

"(d) ALLOCATIONS TO STATES.—

"(1) IN GENERAL.—After reserving funds for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

"(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in the subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

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

"(A)(i) Except as provided in subparagraph (B), the Secretary shall allocate—

"(I) to each State the amount it received for fiscal year 1999;

"(II) 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

"(III) 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

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

"(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

"(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

"(ii) No State's allocation shall be less than the greatest of—

"(I) the sum of—

"(aa) the amount it received for fiscal year 1999; and

"(bb) one-third of one percent of the amount by which the amount appropriated under subsection (i) exceeds the amount appropriated under this section for fiscal year 1999;

"(II) the sum of—

"(aa) the amount it received for the preceding fiscal year; and

"(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

"(III) the sum of—

"(aa) the amount it received for the preceding fiscal year; and

"(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

"(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

"(I) the amount it received for the preceding fiscal year; and

"(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

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

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

"(i) the amount it received for fiscal year 1999; and

"(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

"(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount it received for fiscal year 1999.

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

"(e) STATE-LEVEL ACTIVITIES.—

"(1) IN GENERAL.—

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

"(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

"(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

"(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

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

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

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

"(2) STATE ADMINISTRATION.—

"(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

"(i) each State may use not more than 20 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

"(ii) each outlying area may use up to 5 percent of the amount it receives under this section for any fiscal year or $35,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater.

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

"(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES.—Each State may use not more than 4 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.

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

"(A) Support and direct services, including technical assistance and personnel development and training.

"(B) Administrative costs of monitoring and complaint investigation.

"(C) To establish and implement the mediation and voluntary binding arbitration processes required by sections 612(a)(17) and 615(e), including providing for the costs of mediators, arbitrators, and support personnel.

"(D) To assist local educational agencies in meeting personnel shortages.

"(E) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart.

"(F) To support paperwork reduction activities, including expanding the appropriate use of technology in the IEP process under this part.

"(G) To develop and maintain a comprehensive, coordinated, prereferral educational support system for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who are not enrolled in special education but who need additional academic and behavioral support to succeed in a general education environment.

"(H) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

"(I) For subgrants to local educational agencies for the purposes described in paragraph (5)(A).

"(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular education teachers, based on scientifically based research to improve educational instruction.

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

"(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

"(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(6) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

"(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

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

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

"(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (e) to local educational agencies, including public charter schools that

operate as local educational agencies, in the State that have established their eligibility under section 613, for use in accordance with this part.

"(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

"(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

"(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

"(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

"(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

"(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

"(g) DEFINITIONS.—For the purpose of this section—

"(1) the term 'average per-pupil expenditure in public elementary and secondary schools in the United States' means—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

"(ii) any direct expenditures by the State for the operation of those agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

"(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

"(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

"(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year. Of the amount described in the preceding sentence—

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

"(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

"(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as 'BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

"(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

"(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

"(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

"(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

"(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

"(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

"(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

"(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring, enforcement, and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

"(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

"(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

"(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

"(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

"(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or

tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

"(E) ANNUAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior an annual report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

"(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

"(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

"(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(22), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

"(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

"(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

"(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

"(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

"(E) provide assistance in the preparation of information required under paragraph (2)(D).

"(6) ANNUAL REPORTS.—

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

"(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

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

"(1) $11,074,398,000 for fiscal year 2004;

"(2) $13,374,398,000 for fiscal year 2005;

"(3) $15,746,302,000 for fiscal year 2006;

"(4) $17,918,205,000 for fiscal year 2007;

"(5) $20,090,109,000 for fiscal year 2008;
"(6) $22,262,307,000 for fiscal year 2009;
"(7) $25,198,603,000 for fiscal year 2010; and
"(8) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.".

SEC. 202. STATE ELIGIBILITY.

(a) IN GENERAL.—(1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)) is amended in the matter preceding paragraph (1) by striking "demonstrates to the satisfaction of" and inserting "reasonably demonstrates to".

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

"(1) FREE APPROPRIATE PUBLIC EDUCATION.—

"(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

"(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

"(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

"(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

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

"(II) did not have an individualized education program under this part.

"(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

"(3) CHILD FIND.—

"(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

"(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

"(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

"(5) LEAST RESTRICTIVE ENVIRONMENT.—

"(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

"(B) ADDITIONAL REQUIREMENT.—

"(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

"(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon

as feasible to ensure that such mechanism does not result in such placements.

"(6) PROCEDURAL SAFEGUARDS.—

"(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

"(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this Act will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

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

"(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(d) (relating to the confidentiality of records and information).

"(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

"(10) CHILDREN IN PRIVATE SCHOOLS.—

"(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

"(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

"(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

"(II) In calculating the proportionate share of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

"(III) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

"(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.

"(V) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

"(ii) CHILD-FIND REQUIREMENT.—

"(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

"(II) EQUITABLE PARTICIPATION.—The child-find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of such children.

"(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency,

shall undertake activities similar to those activities undertaken for its public school children.

"(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local education agency has met its obligations under clause (i).

"(V) COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

"(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with representatives of children with disabilities parentally-placed in private schools during the design and development of special education and related services for these children including—

"(I) the child-find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

"(II) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

"(III) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; and

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

"(iv) COMPLIANCE.—

"(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

"(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

"(v) PROVISION OF SERVICES.—

"(I) DIRECTLY OR THROUGH CONTRACTS.—An agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

"(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.

"(vi) PUBLIC CONTROL OF FUNDS.—

"(I) IN GENERAL.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

"(II) PROVISION OF SERVICES.—The provision of services under this Act shall be provided—

"(aa) by employees of a public agency; or

"(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

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

"(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

"(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

"(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

"(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

"(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

"(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

"(I) if—

"(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

"(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

"(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

"(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

"(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

"(I) shall not be reduced or denied for failure to provide such notice if—

"(aa) the school prevented the parent from providing such notice;

"(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or

"(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

"(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

"(aa) the parent is illiterate or cannot write in English; or

"(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

"(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

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

"(i) the requirements of this part are met; and

"(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

"(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

"(II) meet the educational standards of the State educational agency.

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

"(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.".

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

"(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

"(14) PERSONNEL STANDARDS.—

"(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

"(B) STANDARDS DESCRIBED.—Such standards shall—

"(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;

"(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and

"(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

"(C) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT.—The State educational agency encourages the development and use of research-based innovative strategies, such as strategies using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that—

"(i) improve educational results for students with disabilities; and

"(ii) are both cost-effective and easily accessible.

"(15) PERFORMANCE GOALS AND INDICATORS.—The State—

"(A) has established goals for the performance of children with disabilities in the State that—

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

"(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

"(iii) address dropout rates, as well as such other factors as the State may determine; and

"(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

"(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabil-

ities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and

"(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.

"(16) PARTICIPATION IN ASSESSMENTS.—

"(A) IN GENERAL.—(i) All children with disabilities are included in all general State and district-wide assessment programs, including assessments described under title I of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, where necessary and as indicated in their respective individualized education programs.

"(ii) The State (or, in the case of a district-wide assessment, the local educational agency) has developed and implemented guidelines for the provision of accommodations described in clause (i).

"(iii) The State (or, in the case of a district-wide assessment the local educational agency)—

"(I) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under clause (i); and

"(II) conducts those alternate assessments.

"(B) REPORTS.—The State educational agency (or, in the case of a district-wide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

"(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

"(ii) The number of children with disabilities participating in alternate assessments.

"(iii) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information would not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

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

"(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

"(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

"(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

"(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

"(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

"(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

"(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

"(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

"(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

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

"(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

"(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

"(21) STATE ADVISORY PANEL.—

"(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

"(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

"(i) parents of children with disabilities (ages birth through 26);

"(ii) individuals with disabilities;

"(iii) teachers;

"(iv) representatives of institutions of higher education that prepare special education and related services personnel;

"(v) State and local education officials;

"(vi) administrators of programs for children with disabilities;

"(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

"(viii) representatives of private schools and public charter schools;

"(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

"(x) representatives from the State juvenile and adult corrections agencies.

"(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities ages birth through 26.

"(D) DUTIES.—The advisory panel shall—

"(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

"(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

"(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

"(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

"(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

"(22) SUSPENSION AND EXPULSION RATES.—

"(A) IN GENERAL.—The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

"(i) among local educational agencies in the State; or

"(ii) compared to such rates for nondisabled children within such agencies.

"(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.".

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

"(23) INSTRUCTIONAL MATERIALS.—

"(A) IN GENERAL.—The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

"(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

"(C) DEFINITION.—For purposes of this paragraph, the term 'instructional materials' means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom.

"(24) OVERIDENTIFICATION AND DISPROPORTIONALITY.—The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to prevent the overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3).

"(25) PROHIBITION ON PSYCHOTROPIC MEDICATION.—The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.".

(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—Section 612(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(b)) is amended to read as follows:

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

"(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

"(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).".

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

"(c) EXCEPTION FOR PRIOR STATE PLANS.—

"(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

"(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

"(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Fed-

eral court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.".

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

"(d) APPROVAL BY THE SECRETARY.—

"(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

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

"(A) with reasonable notice; and

"(B) with an opportunity for a hearing.".

(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Section 612(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(e)) is amended to read as follows:

"(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.".

SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Section 613 of the Individuals with Disabilities Education Act (20 U.S.C. 1413) is amended to read as follows:

"SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

"(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency reasonably demonstrates to the State educational agency that it meets each of the following conditions:

"(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

"(2) USE OF AMOUNTS.—

"(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

"(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

"(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

"(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

"(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

"(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

"(ii) a decrease in the enrollment of children with disabilities;

"(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

"(I) has left the jurisdiction of the agency;

"(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

"(III) no longer needs such program of special education; or

"(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

"(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

"(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount

of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.

"(ii) If a local educational agency chooses to use the authority under clause (i), then the agency shall use those local funds to provide additional funding for programs under the Elementary and Secondary Education Act of 1965, including, but not limited to, programs that address student achievement, comprehensive school reform, literacy, teacher quality and professional development, school safety, before- and after-school learning opportunities.

"(iii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a), the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for that fiscal year, but only if it is authorized to do so by the State constitution or a State statute.

"(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

"(i) the number of children with disabilities participating in the schoolwide program; multiplied by

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

"(II) the number of children with disabilities in the jurisdiction of that agency.

"(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612 of this Act and section 1119 of the Elementary and Secondary Education Act of 1965.

"(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

"(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

"(B) PREREFERRAL SERVICES.—To develop and implement a system of comprehensive coordinated prereferral education support services in accordance with subsection (f).

"(C) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium of which the local educational agency is a part, to pay for high cost special education and related services.

"(D) CASE MANAGEMENT AND ADMINISTRATION.—To purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.

"(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNATED FOR IMPROVEMENT.—For the reasonable additional expenses (as determined by the local educational agency) of any necessary accommodations to allow children with disabilities who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) to be provided supplemental educational services under section 1116(e) of such Act on an equitable basis.

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

"(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing supplemental and related services on site at the charter school

when the local educational agency has a policy or practice of providing those services on site to its other schools; and

"(B) provides funds under this part to those schools on the same basis as it provides those funds to its other public schools (including, at the option of such agency, proportional distribution based on relative enrollment of children with disabilities at such charter schools), and at the same time as such agency distributes other Federal funds to those schools, consistent with the State's charter law.

"(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard described in section 612(a)(23).

"(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

"(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

"(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

"(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

"(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

"(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

"(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

"(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

"(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

"(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied

that the local educational agency or State agency, as the case may be, is complying with that requirement.

"(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

"(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

"(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

"(1) JOINT ESTABLISHMENT.—

"(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

"(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

"(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.

"(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

"(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

"(B) be jointly responsible for implementing programs that receive assistance under this part.

"(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

"(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

"(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

"(ii) be carried out only by that educational service agency.

"(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

"(f) PREREFERRAL SERVICES.—

"(1) IN GENERAL.—A local educational agency may use not more than 15 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

"(2) ACTIVITIES.—In implementing comprehensive coordinated prereferral educational services under this subsection, a local educational agency may carry out the following activities:

"(A) Professional development (which may be provided by entities other than local educational agencies) for teachers to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction.

"(B) Providing educational evaluations, services, and supports, including scientifically based literacy instruction and speech therapy.

"(C) Providing behavioral evaluations and services and supports, including positive behavioral interventions and supports.

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

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

"(A) the number of students served under this subsection; and

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

"(5) COORDINATION WITH THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

"(A) IN GENERAL.—Comprehensive coordinated prereferral educational support services provided under this subsection may be aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965, such as the Reading First program under subpart 1 of part B of title I of such Act, the Early Reading First program under subpart 2 of part B of title I of such Act, reading and math supports under part A of title I of such Act, and behavior intervention supports, that improve results for children with disabilities.

"(B) MAINTENANCE OF EFFORT.—Funds used under this section shall be used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965.

"(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

"(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

"(A) has not provided the information needed to establish the eligibility of such agency under this section;

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

"(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

"(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

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

"(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

"(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

"(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

"(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.".

SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

Section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) is amended to read as follows:

"SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

"(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS.—

"(1) INITIAL EVALUATIONS.—

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

"(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, a State educational agency, other State agency as appropriate, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

"(C) PROCEDURES.—Such initial evaluation shall consist of procedures—

"(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

"(ii) to determine the educational needs of such child.

"(D) PARENTAL CONSENT.—

"(i) IN GENERAL.—

"(I) CONSENT FOR INITIAL EVALUATION.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

"(II) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

"(ii) ABSENCE OF CONSENT.—

"(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child through the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.

"(II) FOR SERVICES.—If the parent of such child does not provide consent for services under clause (i)(II), or the parent fails to respond to a request to provide the consent, the local educational agency shall not provide special education and related services to the child through the procedures described in section 615.

"(III) EFFECT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under subclause (I), or for which there is an absence of consent for services under subclause (II)—

"(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

"(bb) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.

"(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

"(2) REEVALUATIONS.—

"(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

"(i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or

"(ii) if the child's parent or teacher requests a reevaluation.

"(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—

"(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and

"(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

"(b) EVALUATION PROCEDURES.—

"(1) NOTICE.—The local educational agency shall provide notice to the parent of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

"(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

"(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—

"(i) whether the child is a child with a disability; and

"(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;

"(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

"(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

"(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

"(A) assessments and other evaluation measures used to assess a child under this section—

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

"(ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate academic and developmental data;

"(iii) are used for the purposes for which the assessments or measures are valid and reliable;

"(iv) are administered by trained and knowledgeable personnel; and

"(v) are administered in accordance with any instructions provided by the producer of such tests;

"(B) the child is assessed in all areas of suspected disability; and

"(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

"(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

"(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

"(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

"(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

"(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);

"(B) lack of instruction in math; or

"(C) limited English proficiency.

"(6) SPECIFIC LEARNING DISABILITIES.—

"(A) IN GENERAL.—Notwithstanding section 607 of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written

expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

"(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process which determines if a child responds to scientific, research-based intervention.

"(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

"(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

"(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments, and classroom-based observations, and teacher and related services providers observations; and

"(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

"(i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

"(ii) the present levels of academic achievement and related developmental needs of the child;

"(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

"(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

"(2) SOURCE OF DATA.—The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

"(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

"(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

"(A) shall notify the child's parents of—

"(i) that determination and the reasons for it; and

"(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

"(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

"(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section prior to graduation, and before determining that the child is no longer a child with a disability, only in instances where the IEP Team is not in agreement regarding the change in eligibility.

"(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

"(A) INDIVIDUALIZED EDUCATION PROGRAM.—

"(i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

"(I) a statement of the child's present levels of academic achievement, including—

"(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

"(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

"(cc) until the beginning of the 2005–2006 school year, a description of benchmarks or short-term objectives, except in the case of children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives shall continue to be included;

"(II) a statement of measurable annual goals designed to—

"(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

"(bb) meet the child's other educational needs that result from the child's disability;

"(III) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

"(aa) to advance appropriately toward attaining the annual goals;

"(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

"(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

"(IV) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (III)(cc);

"(V)(aa) a statement of any individual appropriate accommodations in the administration of State or districtwide assessments of student achievement that are necessary to measure the academic achievement of the child consistent with section 612(a)(16)(A)(ii); and

"(bb) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

"(AA) why that assessment is not appropriate for the child; and

"(BB) how the child will be assessed consistent with 612(a)(16)(A);

"(VI) the projected date for the beginning of the services and modifications described in subclause (III), and the anticipated frequency, location, and duration of those services and modifications;

"(VII)(aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

"(bb) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

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

"(VIII) a statement of—

"(aa) how the child's progress toward the annual goals described in subclause (II) will be measured; and

"(bb) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of

the sufficiency of their child's progress toward the annual goals described in subclause (II).

"(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require—

"(I) that additional information be included in a child's IEP beyond what is required in this subsection; and

"(II) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

"(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

"(i) the parents of a child with a disability;

"(ii) a regular education teacher of such child, but such teacher shall not be required to attend a meeting or part of a meeting of the IEP Team involving issues not related to the child's participation in the regular education environment, nor shall multiple regular education teachers, if the child has more than one regular education teacher, be required to attend a meeting, or part of a meeting, of the IEP team;

"(iii) at least 1 special education teacher, or where appropriate, at least 1 special education provider of such child;

"(iv) a representative of the local educational agency who—

"(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

"(II) is knowledgeable about the general education curriculum; and

"(III) is knowledgeable about the availability of resources of the local educational agency;

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

"(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

"(vii) whenever appropriate, the child with a disability.

"(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

"(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

"(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

"(i) consistent with State policy; and

"(ii) agreed to by the agency and the child's parents.

"(3) DEVELOPMENT OF IEP.—

"(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

"(i) the results of the initial evaluation or most recent evaluation of the child;

"(ii) the academic and developmental needs of the child;

"(iii) the strengths of the child; and

"(iv) the concerns of the parents for enhancing the education of their child.

"(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

"(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

"(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

"(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills,

needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

"(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

"(v) consider whether the child needs assistive technology devices and services.

"(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (1)(B)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).

"(D) IEP TEAM ATTENDANCE.—The parent of a child with a disability and the local educational agency may jointly excuse any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member's attendance is not necessary. The IEP Team shall obtain the member's input prior to an IEP meeting from which the member is excused.

"(E) AGREEMENT ON MEETING.—In making changes to a child's IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop a written document to amend or modify the child's current IEP.

"(F) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of IEP Team meetings for a child.

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

"(4) REVIEW AND REVISION OF IEP.—

"(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

"(i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

"(ii) revises the IEP as appropriate to address—

"(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

"(II) the results of any reevaluation conducted under this section;

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

"(IV) the child's anticipated needs; or

"(V) other matters.

"(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team, shall, consistent with this section, participate in the review and revision of the IEP of the child.

"(5) MULTI-YEAR IEP.—

"(A) DEVELOPMENT.—The local educational agency may offer to the parent of a child with a disability the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to cover the natural transition points for the child. With the consent of the parent, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the appropriate multi-year period, which includes a statement of—

"(i) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

"(ii) measurable annual goals for determining progress toward meeting the goals described in clause (i).

"(B) REVIEW AND REVISION OF MULTI-YEAR IEP.—

"(i) REQUIREMENT.—The IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP at each of the child's natural transition points.

"(ii) STREAMLINED ANNUAL REVIEW PROCESS.—In years other than a child's natural transition points, the local educational agency shall ensure that the IEP Team—

"(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and

"(II) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.

"(iii) COMPREHENSIVE REVIEW PROCESS.—If the IEP Team determines, on the basis of the review under clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team reviews the IEP under paragraph (4), within 30 calendar days.

"(iv) PARENTAL PREFERENCE.—At the request of the parent, the IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP rather than a streamlined annual review under clause (ii).

"(C) DEFINITION.—As used in this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-secondary activities, but in no case longer than 3 years.

"(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

"(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

"(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

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

"(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VII) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

"(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

"(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

"(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP team meetings and placement meetings pursuant to this section and 615, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.".

SEC. 205. PROCEDURAL SAFEGUARDS.

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

"(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.".

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

"(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

"(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain as appropriate an independent educational evaluation of the child;

"(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

"(3) written prior notice to the parents of the child whenever such agency—

"(A) proposes to initiate or change; or

"(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

"(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

"(5) an opportunity for mediation and voluntary binding arbitration, in accordance with subsection (e);

"(6) an opportunity to present complaints—

"(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

"(B) which set forth a violation that occurred not more than one year before the complaint is filed;

"(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

"(i) to the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and

"(ii) that shall include—

"(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;

"(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

"(III) a proposed resolution of the problem to the extent known and available to the parents at the time;

"(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and

"(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).".

(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section 615(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(c)) is amended to read as follows:

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

"(1) a description of the action proposed or refused by the agency;

"(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

"(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

"(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.".

(d) PROCEDURAL SAFEGUARDS NOTICE.—Section 615(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(d)) is amended to read as follows:

"(d) PROCEDURAL SAFEGUARDS NOTICE.—

"(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

"(A) upon initial referral or parental request for evaluation;

"(B) annually, at the beginning of the school year; and

"(C) upon written request by a parent.

"(2) CONTENTS.—The procedural safeguards notice shall include a description of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

"(A) independent educational evaluation;

"(B) prior written notice;

"(C) parental consent;

"(D) access to educational records;

"(E) opportunity to present complaints;

"(F) the child's placement during pendency of due process proceedings;

"(G) procedures for students who are subject to placement in an interim alternative educational setting;

"(H) requirements for unilateral placement by parents of children in private schools at public expense;

"(I) mediation, early dispute resolution, and voluntary binding arbitration;

"(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

"(K) civil actions; and

"(L) attorneys' fees.".

(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—Section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)) is amended to read as follows:

"(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—

"(1) MEDIATION.—

"(A) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

"(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

"(i) The procedures shall ensure that the mediation process—

"(I) is voluntary on the part of the parties;

"(II) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

"(III) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

"(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

"(I) a parent training and information center in the State established under section 672; or

"(II) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

"(iii) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

"(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).

"(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

"(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

"(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

"(2) VOLUNTARY BINDING ARBITRATION.—

"(A) IN GENERAL.—A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j).

"(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

"(i) The procedures shall ensure that the voluntary binding arbitration process—

"(I) is voluntarily and knowingly agreed to in writing by the parties; and

"(II) is conducted by a qualified and impartial arbitrator.

"(ii) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final, unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator.

"(iii) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.

"(iv) The arbitration shall be conducted according to State law on arbitration or, if there is no such applicable State law, in a manner consistent with the Revised Uniform Arbitration Act.

"(v) The voluntary binding arbitration shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.".

(f) IMPARTIAL DUE PROCESS HEARING.—Section 615(f) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)) is amended to read as follows:

"(f) IMPARTIAL DUE PROCESS HEARING.—

"(1) IN GENERAL.—

"(A) ACCESS TO HEARING.—Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.

"(B) RESOLUTION SESSION.—

"(i) IN GENERAL.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents—

"(I) within 15 days of receiving notice of the parents' complaint; and

"(II) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint;

unless the parents and the local educational agency agree in writing to waive such meeting.

"(ii) DUE PROCESS HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).

"(iii) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (i) shall not be considered—

"(I) a meeting convened as a result of an administrative hearing or judicial action; or

"(II) an administrative hearing or judicial action for purposes of subsection (h)(3).

"(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

"(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all

evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

"(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

"(3) LIMITATION ON HEARING.—

"(A) HEARING OFFICER.—A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—

"(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

"(ii) any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

"(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues at the due process hearing that were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees otherwise.

"(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination of whether or not the child received a free appropriate public education.".

(g) APPEAL.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by striking subsection (g).

(h) SAFEGUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (h) as subsection (g); and

(2) by amending subsection (g) (as redesignated) to read as follows:

"(g) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (j) shall be accorded—

"(1) the right to be represented by counsel and by non-attorney advocates and to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;

"(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

"(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

"(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(d)) (relating to the confidentiality of data, information, and records).".

(i) ADMINISTRATIVE PROCEDURES.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) in subsection (h) (as redesignated)—

(A) in paragraph (1)—

(i) by striking "IN GENERAL.—" and all that follows through "A decision made in a hearing" and inserting "IN GENERAL.—A decision made in a hearing";

(ii) by striking "(k)" and inserting "(j)";

(iii) by striking "subsection (g) and"; and

(iv) by striking subparagraph (B);

(B) in paragraph (2)(A), by striking "subsection (f) or (k) who does not have the right to an appeal under subsection (g)" and inserting "subsection (f) or (j)"; and

(C) in paragraph (3), by amending subparagraph (C) to read as follows:

"(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—

"(i) IN GENERAL.—Fees awarded under this paragraph shall be based on rates determined by the Governor of the State (or other appropriate State official) in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

"(ii) NOTICE.—The Governor of the State (or other appropriate State official) shall make available to the public on an annual basis the rates described in clause (i).".

(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (j) as subsection (i); and

(2) by amending subsection (i) (as redesignated) to read as follows:

"(i) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (j)(4), during the pendency of any proceedings conducted pursuant to this

section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.".

(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (k) as subsection (j); and

(2) by amending subsection (j) (as redesignated) to read as follows:

"(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

"(1) AUTHORITY OF SCHOOL PERSONNEL.—

"(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities).

"(B) ADDITIONAL AUTHORITY.—Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the local educational agency.

"(C) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) shall—

"(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

"(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.

"(2) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.

"(3) PARENT APPEAL.—

"(A) IN GENERAL.—If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.

"(B) AUTHORITY OF HEARING OFFICER.—If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including duration of the punishment, the hearing officer may determine whether the decision regarding such action was appropriate.

"(4) PLACEMENT DURING APPEALS.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

"(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

"(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

"(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

"(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

"(ii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

"(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern in writing about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

"(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

"(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

"(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

"(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

"(A) IN GENERAL.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

"(B) TRANSMISSION OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.".

(l) RULE OF CONSTRUCTION.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesignating subsection (l) as subsection (k).

(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (m) as subsection (l); and

(2) by amending subsection (l) (as redesignated) to read as follows:

"(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

"(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

"(A) the public agency shall provide any notice required by this section to both the individual and the parents;

"(B) all other rights accorded to parents under this part transfer to the child;

"(C) the agency shall notify the individual and the parents of the transfer of rights; and

"(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

"(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.".

SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

Section 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(1) by amending the heading to read as follows:

"SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.";

(2) by redesignating subsections (a) through (c) as subsections (e) through (g), respectively; and

(3) by inserting before subsection (e) (as redesignated) the following:

"(a) FEDERAL MONITORING.—

"(1) IN GENERAL.—The Secretary shall monitor implementation of this Act.

"(2) FOCUSED MONITORING.—The primary focus of Federal monitoring activities shall be to improve educational results for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

"(b) INDICATORS.—

"(1) REQUIRED INDICATORS.—The Secretary shall examine relevant information and data related to States' progress on improving educational results for children with disabilities by reviewing—

"(A) achievement results of children with disabilities on State or district assessments, including children with disabilities taking State or district assessments with appropriate accommodations;

"(B) achievement results of children with disabilities on State or district alternate assessments;

"(C) graduation rates of children with disabilities and graduation rates of children with disabilities as compared to graduation rates of nondisabled children; and

"(D) dropout rates for children with disabilities and dropout rates of children with disabilities as compared to dropout rates of nondisabled children.

"(2) PERMISSIVE INDICATORS.—The Secretary also may establish other priorities for review of relevant information and data, including data provided by States under section 618, and also including the following:

"(A) PRIORITIES FOR THIS PART.—The Secretary may give priority to monitoring on the following areas under this part:

"(i) Provision of educational services in the least restrictive environment, including—

"(I) education of children with disabilities with nondisabled peers to the maximum extent appropriate;

"(II) provision of appropriate special education and related services;

"(III) access to the general curriculum with appropriate accommodations;

"(IV) provision of appropriate services to students whose behavior impedes learning; and

"(V) participation and performance of children with disabilities on State and local assessments, including alternate assessments.

"(ii) Secondary transition, including the extent to which youth exiting special education are prepared for post-secondary education, employment, and adult life, and are participants in appropriate transition planning while in school.

"(iii) State exercise of general supervisory authority, including effective monitoring and use of complaint resolution, mediation, and voluntary binding arbitration.

"(B) PRIORITIES FOR PART C.—The Secretary may give priority to monitoring on the following areas under part C:

"(i) Child find and public awareness to support the identification, evaluation and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral.

"(ii) Provision of early intervention services in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services in natural environments to meet the needs of individual children.

"(iii) Effective early childhood transition to services under this part.

"(iv) State exercise of general supervisory authority, including—

"(I) effective monitoring and use of other mechanisms such as complaint resolution;

"(II) implementation of mediation and voluntary binding arbitration; and

"(III) coordination of parent and child protections.

"(3) DATA COLLECTION AND ANALYSIS.—The Secretary shall review the data collection and analysis capacity of States to ensure that data and information is collected, analyzed, and accurately reported to the Secretary. The Secretary may provide technical assistance to improve the capacity of States to meet data requirements.

"(c) ADDITIONAL PRIORITIES.—

"(1) IN GENERAL.—The Secretary may develop additional priorities for monitoring the effective implementation of this Act.

"(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on any additional priority proposed under this part or part C.

"(3) DATE OF ENFORCEMENT.—The Secretary may not begin to enforce a new priority until one year from the date of publication of the priority in the Federal Register as a final rule.

"(d) COMPLIANCE.—

"(1) IN GENERAL.—The Secretary shall review State data to determine whether the State is in compliance with the provisions of this Act.

"(2) LACK OF PROGRESS.—If after examining data, as provided in section (b) or (c), the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary shall take one or more of the following actions:

"(A) Advise the State of available sources of technical assistance that may help the State address the lack of progress, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies. Such technical assistance may include—

"(i) the provision of advice by experts to address the areas of noncompliance, including explicit plans for ensuring compliance within a specified period of time;

"(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

"(iii) designating and using distinguished superintendents, principals, special education administrators, regular education teachers, and special education teachers to provide advice, technical assistance, and support; and

"(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

"(B) Direct the use of State level funds for technical assistance on the area or areas of unsatisfactory performance.

"(C) Each year withhold at least 20 but no more than 50 percent of the State's funds under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

"(3) SUBSTANTIAL NON-COMPLIANCE.—

"(A) INITIAL DETERMINATION.—When the Secretary determines that a State is not in substantial compliance with any provision of this part, the Secretary shall take one or more of the following actions:

"(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

"(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant.

"(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within one year.

"(iv) Recovery of funds under section 452 of the General Education Provisions Act.

"(v)(I) Withholding of payments under subsection (e).

"(II) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(B) CONTINUED NON-COMPLIANCE.—

"(i) SECRETARIAL ACTION.—If the Secretary has imposed special conditions on a grant under subparagraph (A)(ii) for substantially the same compliance problems for three consecutive years, and at the end of the third year the State has not demonstrated that the violation has been corrected to the satisfaction of the Secretary, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in clauses (iii) through (v) of subparagraph (A).

"(ii) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.".

SEC. 207. ADMINISTRATION.

Section 617 of the Individuals with Disabilities Education Act (20 U.S.C. 1417) is amended to read as follows:

"SEC. 617. ADMINISTRATION.

"(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

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

"(A) the education of children with disabilities; and

"(B) carrying out this part; and

"(2) provide short-term training programs and institutes.

"(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction.

"(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

"(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

"(e) PILOT PROGRAM.—The Secretary is authorized to grant waivers of paperwork requirements under this part for a period of time not to exceed 4 years with respect to not more than 10 States based on proposals submitted by States for addressing reduction of paperwork and non-instructional time spent fulfilling statutory and regulatory requirements.

"(f) REPORT.—The Secretary shall include in the annual report to Congress under section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e)—

"(1) in reducing the paperwork burden on teachers, administrators, and related services providers and non-instructional time spent by teachers in complying with this part, including any specific recommendations for broader implementation; and

"(2) in enhancing longer-term educational planning, improving positive outcomes for children with disabilities, promoting collaboration between IEP Team members, and ensuring satisfaction of family members, including any specific recommendations for broader implementation.

"(g) MODEL FORMS.—Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate widely to States, local educational agencies, and parent training and information centers—

"(1) a model individualized education program form;

"(2) a model form for the procedural safeguards notice described in section 615(d); and

"(3) a model form for the prior written notice described in section 615(b)(3); that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements.".

SEC. 208. PROGRAM INFORMATION.

Section 618 of the Individuals with Disabilities Education Act (20 U.S.C. 1418) is amended to read as follows:

"SEC. 618. PROGRAM INFORMATION.

"(a) IN GENERAL.—Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

"(1)(A) on—

"(i) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

"(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

"(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

"(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

"(v) the number and percentage of children with disabilities, by race and ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

"(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

"(vii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

"(viii)(I) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;

"(II) the acts or items precipitating those removals;

"(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

"(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

"(ix) the number of complaints resolved through voluntary binding arbitration; and

"(x) the number of mediations held and the number of settlement agreements reached through mediation;

"(B) on the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and

"(C) on the number of children served with funds under section 613(f); and

"(2) on any other information that may be required by the Secretary.

"(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

"(c) DISPROPORTIONALITY.—

"(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

"(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

"(B) the placement in particular educational settings of such children; and

"(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

"(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be—

"(A) shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act;

"(B) shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

"(C) shall require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).".

SEC. 209. PRESCHOOL GRANTS.

Section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1419) is amended to read as follows:

"SEC. 619. PRESCHOOL GRANTS.

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

"(1) to children with disabilities aged 3 through 5, inclusive; and

"(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

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

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

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

"(c) ALLOCATIONS TO STATES.—

"(1) IN GENERAL.—The Secretary shall allocate funds among the States in accordance with paragraph (2) or (3), as appropriate.

"(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

"(A)(i) Except as provided in subparagraph (B), the Secretary shall—

"(I) allocate to each State the amount it received for fiscal year 1997;

"(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

"(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

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

"(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

"(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

"(ii) No State's allocation shall be less than the greatest of—

"(I) the sum of—

"(aa) the amount it received for fiscal year 1997; and

"(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

"(II) the sum of—

"(aa) the amount it received for the preceding fiscal year; and

"(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

"(III) the sum of—

"(aa) the amount it received for the preceding fiscal year; and

"(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

"(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

"(I) the amount it received for the preceding fiscal year; and

"(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

"(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

"(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

"(i) the amount it received for fiscal year 1997; and

"(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

"(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

"(d) RESERVATION FOR STATE ACTIVITIES.—

"(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

"(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

"(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

"(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(e) STATE ADMINISTRATION.—

"(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

"(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

"(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

"(1) for support services (including establishing and implementing the mediation and voluntary binding arbitration process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

"(2) for direct services for children eligible for services under this section;

"(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart; or

"(4) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

"(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

"(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

"(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

"(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

"(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

"(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

"(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

"(i) DEFINITION.—For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.".

TITLE III—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 631 through 638 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1438) are amended to read as follows:

"SEC. 631. FINDINGS AND POLICY.

"(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

"(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

"(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

"(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

"(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

"(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

"(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

"(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

"(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

"(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

"(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

"SEC. 632. DEFINITIONS.

"As used in this part:

"(1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

"(2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641.

"(3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

"(4) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means developmental services that—

"(A) are provided under public supervision;

"(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

"(C) are designed to address family-identified priorities and concerns that are determined by individualized family service plan team to relate to enhancing the child's development in any one or more of the following areas—

"(i) physical development;

"(ii) cognitive development;

"(iii) communication development;

"(iv) social or emotional development; or

"(v) adaptive development;

"(D) meet the standards of the State in which they are provided, including the requirements of this part;

"(E) include—

"(i) family training, family therapy, counseling, and home visits;

"(ii) special instruction;

"(iii) speech-language pathology and audiology services;

"(iv) occupational therapy;

"(v) physical therapy;

"(vi) psychological services;

"(vii) service coordination services;

"(viii) medical services only for diagnostic or evaluation purposes;

"(ix) early identification, screening, and assessment services;

"(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

"(xi) social work services;

"(xii) vision services;

"(xiii) assistive technology devices and assistive technology services; and

"(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

"(F) are provided by qualified personnel, including—

"(i) special educators;

"(ii) speech-language pathologists and audiologists;

"(iii) occupational therapists;

"(iv) physical therapists;

"(v) psychologists;

"(vi) social workers;

"(vii) nurses;

"(viii) registered dietitians;

"(ix) family therapists;

"(x) vision specialists, including ophthalmologists and optometrists;

"(xi) orientation and mobility specialists; and

"(xii) pediatricians and other physicians;

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

"(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

"(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'—

"(A) means an individual under 3 years of age who needs early intervention services because the individual—

"(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of

cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

"(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

"(B) may also include, at a State's discretion, at-risk infants and toddlers; and

"(C) may also include, at a State's discretion, a child aged 3 through 5, who previously received services under this part and who is eligible for services under section 619, if—

"(i) services provided to this age group under this part include an educational component that promotes school readiness and incorporates scientifically based pre-literacy, language, and numeracy skills; and

"(ii) parents are provided a written notification of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs assisted under section 619.

"SEC. 633. GENERAL AUTHORITY.

"The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

"SEC. 634. ELIGIBILITY.

"In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—

"(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

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

"SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

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

"(1) A definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part.

"(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

"(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

"(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

"(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

"(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619 of this Act, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers.

"(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

"(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—

"(A) shall include—

"(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

"(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and

"(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and

"(B) may include—

"(i) training personnel to work in rural and inner-city areas; and

"(ii) training personnel in the emotional and social development of young children.

"(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services.

"(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

"(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

"(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

"(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

"(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

"(E) the resolution of intra- and interagency disputes; and

"(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

"(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

"(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

"(13) Procedural safeguards with respect to programs under this part, as required by section 639.

"(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

"(15) A State interagency coordinating council that meets the requirements of section 641.

"(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

"(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

"(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

"(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to

meet the standards described in subsection (a)(9), consistent with State law within 3 years.

"(c) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—

"(1) IN GENERAL.—If a State includes children described in section 632(5)(C) in the system described in section 633, the State shall be considered to have fulfilled any obligation under part B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

"SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

"(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

"(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

"(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

"(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the child's entrance in school.

"(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

"(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

"(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

"(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

"(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

"(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the goals is being made and whether modifications or revisions of the goals or services are necessary;

"(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

"(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

"(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

"(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

"(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

"(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

"SEC. 637. STATE APPLICATION AND ASSURANCES.

"(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

"(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

"(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

"(3) information demonstrating eligibility of the State under section 634, including a description of services to be provided to infants and toddlers with disabilities and their families through the system;

"(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

"(5) a description of the State policies and procedures requiring the referral of a child under the age 3 who is involved in a substantiated case of child abuse or neglect consistent with section 635(a)(5) or who is born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication, or neonatal physical or neurological harm resulting from prenatal drug exposure;

"(6) a description of the uses for which funds will be expended in accordance with this part;

"(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

"(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

"(9) a description of the policies and procedures to be used—

"(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

"(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

"(ii) the lead agency designated or established under section 635(a)(10) will—

"(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

"(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

"(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

"(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

"(C) to establish a transition plan;

"(10) a description of State efforts to promote collaboration between Early Head Start programs, child care, and services under part C of this Act; and

"(11) such other information and assurances as the Secretary may reasonably require.

"(b) ASSURANCES.—The application described in subsection (a)—

"(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

"(2) shall contain an assurance that the State will comply with the requirements of section 640;

"(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

"(4) shall provide for—

"(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

"(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

"(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

"(A) will not be commingled with State funds; and

"(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

"(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

"(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

"(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

"(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

"(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

"(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

"(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

"(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

"(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

"(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

"SEC. 638. USES OF FUNDS.

"In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

"(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

"(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

"(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

"(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

"(A) identifying and evaluating at-risk infants and toddlers;

"(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

"(C) conducting periodic followup on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.".

SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 641 through 645 of the Individuals with Disabilities Education Act (20 U.S.C. 1441–1445) are amended to read as follows:

"SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

"(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

"(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The council shall be composed as follows:

"(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

"(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

"(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

"(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

"(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

"(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

"(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

"(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

"(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

"(J) MENTAL HEALTH AGENCY.—At least one representative from the State agency responsible for children's mental health.

"(K) CHILD WELFARE AGENCY.—At least one representative from the State agency responsible for child protective services.

"(L) OFFICE OF THE COORDINATOR FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—At least one representative designated by the Office of the Coordinator.

"(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

"(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment

when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—

"(1) DUTIES.—The council shall—

"(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

"(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

"(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

"(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

"(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

"(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"SEC. 642. FEDERAL ADMINISTRATION.

"Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

"(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

"(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

"(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

"SEC. 643. ALLOCATION OF FUNDS.

"(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

"(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

"(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

"(b) PAYMENTS TO INDIANS.—

"(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

"(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total number of such children served by all tribes, tribal organizations, or consortia.

"(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

"(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

"(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make an annual report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

"(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

"(c) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

"(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

"(A) one-half of one percent of the remaining amount described in paragraph (1); or

"(B) $500,000.

"(3) RATABLE REDUCTION.—

"(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

"(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

"(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"SEC. 644. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $447,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.".

TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended to read as follows:

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

"SEC. 651. FINDINGS.

"The Congress finds the following:

"(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

"(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations, to develop and implement comprehensive strategies that improve educational results for children with disabilities.

"(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

"(4) An effective educational system serving students with disabilities should—

"(A) maintain high academic standards and clear achievement goals for children, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

"(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

"(C) promote transition services, as described in section 602(31), and coordinate State and local education, social, health, mental health, and other services, to address the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

"(5) The availability of an adequate number of qualified personnel is critical in order to serve effectively children with disabilities, fill leadership positions in administrative and direct-service capacities, provide teacher training, and conduct high-quality research to improve special education.

"(6) High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

"(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

"(8) Continued support is essential for the development and maintenance of a coordinated and high-quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

"(9) A comprehensive research agenda should be established and pursued to promote the highest quality and rigor in research on special education and related services, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

"(10) Technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

"(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

"(12) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

"(A) creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between such parents and schools, encouraging dispute resolution at the earliest point in time possible, and discouraging the escalation of an adversarial process between such parents and schools;

"(B) ensuring the involvement of such parents in planning and decision-making with respect to early intervention, educational, and transitional services;

"(C) achieving high-quality early intervention, educational, and transitional results for children with disabilities;

"(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

"(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 602(31);

"(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

"(G) supporting those parents who may have limited access to services and supports due to economic, cultural, or linguistic barriers.

"(13) Support is needed to improve technological resources and integrate technology into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

"Subpart 1—State Professional Development Grants

"SEC. 652. PURPOSE.

"The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for professional development in early intervention, educational, and related and transition services in order to improve results for children with disabilities.

"SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.

"(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a period of not less than 1 year and not more than 5 years.

"(b) PARTNERS.—

"(1) REQUIRED PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall enter into a partnership agreement with local educational agencies, at least one institution of higher education in the State, and other State agencies involved in, or concerned with, the education of children with disabilities.

"(2) OPTIONAL PARTNERS.—In addition, a State educational agency may enter into a partnership agreement with any of the following:

"(A) The Governor.

"(B) Parents of children with disabilities ages birth through 26.

"(C) Parents of nondisabled children ages birth through 26.

"(D) Individuals with disabilities.

"(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

"(F) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities.

"(G) The lead State agency for part C.

"(H) General and special education teachers, related services personnel, and early intervention personnel.

"(I) The State advisory panel established under part C.

"(J) The State interagency coordinating council established under part C.

"(K) Institutions of higher education within the State.

"(L) Individuals knowledgeable about vocational education.

"(M) The State agency for higher education.

"(N) The State vocational rehabilitation agency.

"(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

"(P) Other providers of professional development that work with students with disabilities.

"(Q) Other individuals.

"SEC. 654. APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

"(2) STATE PLAN.—The application shall include a plan that addresses the State and local needs for the professional development of administrators, principals, teachers, related services personnel, and individuals who provide direct supplementary aids and services to children with disabilities, and that—

"(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965, as appropriate; and

"(B) is designed to enable the State to meet the requirements of section 612(a)(15) of this Act.

"(b) ELEMENTS OF STATE PLAN.—Each State plan shall—

"(1) describe a partnership agreement that—

"(A) specifies—

"(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

"(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

"(B) is in effect for the period of the grant;

"(2) describe how grant funds, including part B funds retained for use at the State level under sections 611(e) and 619(d), and other Federal funds will be used to support activities conducted under this subpart;

"(3) describe the strategies the State will use to implement the plan to improve results for children with disabilities, including—

"(A) how the State will align its professional development plan with the plans submitted by the State under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

"(B) how the State will provide technical assistance to local educational agencies and schools to improve the quality of professional development available to meet the needs of personnel that serve children with disabilities; and

"(C) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the achievement goals and indicators in section 612(a)(16);

"(4) describe, as appropriate, how the strategies described in paragraph (3) will be coordinated with public and private sector resources; and

"(5) include an assurance that the State will use funds received under this subpart to carry out each of the activities specified in the plan.

"(c) COMPETITIVE AWARDS.—

"(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

"(2) PRIORITY.—The Secretary may give priority to applications on the basis of need.

"(d) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary shall evaluate applications under this subpart using a panel of experts who are qualified by virtue of their training, expertise, or experience.

"(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

"(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

"(e) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—

"(1) describe the progress of the State in implementing its plan;

"(2) analyze the effectiveness of the State's activities under this subpart and of the State's strategies for meeting its goals under section 612(a)(16); and

"(3) identify any changes in such strategies needed to improve its performance.

"SEC. 655. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

"(A) PROFESSIONAL DEVELOPMENT.—

"(i) Carrying out programs that support the professional development of early intervention personnel, related services personnel, and both special education and regular education teachers of children with disabilities, such as programs that—

"(I) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development;

"(II) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965;

"(III) promote collaborative and consultive models of providing special education ad related services; and

"(IV) increase understanding as to the most appropriate placements and services for all students to reduce significant racial and ethnic disproportionality in eligibility, placement, and disciplinary actions.

"(ii) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

"(iii) Providing professional development activities that improve the knowledge of special education and regular education teachers concerning—

"(I) the academic and developmental needs of students with disabilities; and

"(II) effective instructional strategies, methods, and skills, use of challenging State academic content standards and student academic achievement standards, and use of State assessments, to improve teaching practices and student academic achievement.

"(iv) Providing professional development activities that—

"(I) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, related services personnel and paraprofessionals, concerning effective instructional practices;

"(II) provide training in how to teach and address the needs of students with different learning styles;

"(III) involve collaborative groups of teachers and administrators;

"(IV) provide training in methods of—

"(aa) positive behavior interventions and supports to improve student behavior in the classroom;

"(bb) scientifically based reading instruction, including early literacy instruction; and

"(cc) early and appropriate interventions to identify and help students with disabilities;

"(V) provide training to enable special education and regular education teachers, related services personnel, and principals to involve parents in their child's education, especially parents of low-income and limited English proficient children with disabilities; or

"(VI) train administrators and other relevant school personnel in conducting facilitated individualized education program meetings.

"(v) Developing and implementing initiatives to promote retention of highly qualified special education teachers, including programs that provide—

"(I) teacher mentoring from exemplary special education teachers, principals, or superintendents;

"(II) induction and support for special education teachers during their first 3 years of employment as teachers; or

"(III) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities improve their academic achievement.

"(vi) Carrying out programs and activities that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

"(I) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

"(II) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

"(B) STATE ACTIVITIES.—

"(i) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

"(I) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories;

"(II) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

"(III) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

"(IV) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students meet challenging State student academic achievement standards.

"(ii) Carrying out programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become highly effective special education teachers, such as individuals with a baccalaureate or master's degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

"(iii) Carrying out teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

"(iv) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

"(v) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

"(vi) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

"(vii) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

"(viii) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strate-

gies that involve delivery through the use of technology, peer networks, and distance learning.

"(ix) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for special education teachers.

"(x) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

"(xi) Coordinating with, and expanding, centers established under section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

"(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

"(A) shall, consistent with its partnership agreement under section 654(b)(1), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State plan under this subpart; and

"(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

"(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—

"(1) not less than 90 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(A); and

"(2) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

"(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

"SEC. 656. STATE GRANT AMOUNTS.

"(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

"(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(2) not less than $80,000, in the case of an outlying area.

"(b) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

"(1) the amount of funds available for making the grants;

"(2) the relative population of the State or outlying area; and

"(3) the types of activities proposed by the State or outlying area, including—

"(A) the alignment of proposed activities with paragraphs (14) and (15) of section 612(a);

"(B) the alignment of proposed activities with the plans submitted under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965; and

"(C) the use, as appropriate, of scientifically based research.

"SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

"Subpart 2—Scientifically Based Research; Technical Assistance; Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

"SEC. 661. PURPOSE.

"The purpose of this subpart is to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional results for children with disabilities.

"SEC. 662. ADMINISTRATIVE PROVISIONS.

"(a) COMPREHENSIVE PLAN.—

"(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than section 663) in order to enhance the provision of educational, related, transitional, and early

intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted under subpart 1.

"(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on the plan.

"(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

"(4) REPORTS TO CONGRESS.—The Secretary shall annually report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 12 months after the date of the enactment of Improving Education Results for Children With Disabilities Act of 2003.

"(b) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

"(A) A State educational agency.

"(B) A local educational agency.

"(C) A public charter school that is a local educational agency under State law.

"(D) An institution of higher education.

"(E) Any other public agency.

"(F) A private nonprofit organization.

"(G) An outlying area.

"(H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

"(I) A for-profit organization if the Secretary finds it appropriate given the specific purpose of the competition.

"(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

"(c) SPECIAL POPULATIONS.—

"(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

"(2) REQUIRED OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for either or both of the following activities:

"(A) Providing outreach and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

"(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant applicants meet the criteria established by the Secretary under this subpart.

"(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rulemaking procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

"(1) projects that address one or more—

"(A) age ranges;

"(B) disabilities;

"(C) school grades;

"(D) types of educational placements or early intervention environments;

"(E) types of services;

"(F) content areas, such as reading; or

"(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

"(2) projects that address the needs of children based on the severity or incidence of their disability;

"(3) projects that address the needs of—

"(A) low-achieving students;
"(B) underserved populations;
"(C) children from low-income families;
"(D) children with limited English proficiency;
"(E) unserved and underserved areas;
"(F) rural or urban areas;
"(G) children whose behavior interferes with their learning and socialization;
"(H) children with intractable reading difficulties; and
"(I) children in public charter schools;

"(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; and

"(5) any activity that is expressly authorized in this subpart or subpart 3.

"(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

"(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

"(A) involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project; and

"(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

"(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

"(A) to share in the cost of the project;

"(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

"(C) to disseminate such findings and products; and

"(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

"(f) APPLICATION MANAGEMENT.—

"(1) STANDING PANEL.—

"(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than section 663) that, individually, request more than $75,000 per year in Federal financial assistance.

"(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

"(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high-quality programs of personnel preparation;

"(ii) individuals who design and carry out scientifically-based research targeted to the improvement of special education programs and services;

"(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically-based research findings to improve educational and transitional results for children with disabilities;

"(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

"(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

"(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

"(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

"(viii) individuals with disabilities.

"(C) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years.

"(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

"(A) COMPOSITION.—The Secretary shall ensure that each subpanel selected from the standing panel that reviews applications under this subpart (other than section 663) includes—

"(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

"(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

"(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each subpanel that reviews an application under this subpart (other than section 663) shall be individuals who are not employees of the Federal Government.

"(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

"(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

"(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

"(g) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

"(h) MINIMUM FUNDING REQUIRED.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

"(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

"(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

"(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

"(2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

"(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

"SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES.

"(a) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established, in the Institute of Education Sciences established under section 111 of the Education Sciences Reform Act of 2002 (Public Law 107–279; 116 Stat. 1944) (hereinafter in this section referred to as 'the Institute'), the National Center for Special Education Research.

"(B) COMMISSIONER.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research (hereinafter in this section referred to as 'the Commissioner'). The Commissioner shall be appointed by the Director of the Institute (hereinafter in this section referred to as 'the Director') in accordance with section 117 of the Education Sciences Reform Act of 2002. The Commissioner shall have substantial knowledge of the Center's activities, including a high level of expertise in the fields of research and research management.

"(2) APPLICABILITY OF EDUCATION SCIENCE REFORM ACT OF 2002.—Parts A and E of the Education Sciences Reform Act of 2002, as well as the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134 of such Act, shall apply to the Secretary, the Director, and the Commissioner in carrying out this section.

"(b) COMPETITIVE GRANTS.—The Director shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to expand the fundamental knowledge and understanding of the education of infants, toddlers, and children with disabilities in order to improve educational results for such individuals, in accordance with the priorities determined under this section.

"(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include research activities—

"(1) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

"(2) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

"(3) to examine the special needs of preschool-aged children and infants and toddlers with disabilities, including factors that may result in developmental delays;

"(4) to investigate scientifically based related services and interventions that promote participation and progress in the general education curriculum;

"(5) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

"(6) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 1111(b)(2)(B);

"(7) to examine State content standards and alternate assessments for students with a significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate educational settings, and improved post-school results;

"(8) to examine the educational and developmental needs of children with high-incidence and low-incidence disabilities;

"(9) to examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

"(10) to improve reading and literacy skills for children with disabilities;

"(11) to examine and improve secondary and postsecondary education and transitional needs of children with disabilities;

"(12) to examine methods of early intervention for children with disabilities who need significant levels of support;

"(13) to examine universal design concepts in the development of assessments, curricula, and instructional methods as a method to improve educational results for children with disabilities;

"(14) to improve the professional preparation for personnel who provide educational and related services to children with disabilities, including children with low-incidence disabilities, to increase academic achievement of children with disabilities;

"(15) to examine the excess costs of educating a child with a disability and expenses associated with high-cost special education and related services; and

"(16) to examine the special needs of limited English proficient children with disabilities.

"(d) PLAN.—The National Center for Special Education Research shall propose to the Director a research plan, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, that—

"(1) is consistent with the priorities and mission of the Institute of Educational Sciences and the mission of the Special Education Research Center and includes the activities described in paragraph (3);

"(2) shall be carried out pursuant to subsection (c) and, as appropriate, be updated and modified; and

"(3) carries out specific, long-term research activities that are consistent with the priorities and mission of the Institute of Educational Sciences, and are approved by the Director.

"(e) IMPLEMENTATION.—The National Center for Special Education Research shall implement the plan proposed under subsection (d) to carry out scientifically valid research that—

"(1) is consistent with the purposes of this Act;

"(2) reflects an appropriate balance across all age ranges of children with disabilities;

"(3) provides for research that is objective and that uses measurable indicators to assess its progress and results;

"(4) includes both basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives;

"(5) ensures that the research conducted under this section is relevant to special education practice and policy;

"(6) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance as well as activities authorized under this part, the findings and results of education research conducted or supported by the National Center for Special Education Research; and

"(7) assist the Director in the preparation of a biennial report, as a described in section 119 of the Education Sciences Reform Act of 2003.

"(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require.

"SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.

"(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including regional resource centers and clearinghouses to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

"(b) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

"(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

"(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965;

"(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

"(4) identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

"(A) provide effective transitions between educational settings or from school to post school settings; and

"(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

"(5) demonstrating and applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

"(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

"(1) applying and testing research findings in typical service settings to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

"(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

"(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

"(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

"(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

"(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

"(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

"(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

"(A) to schools and agencies serving deaf-blind children and their families;

"(B) to programs and agencies serving other groups of children with low-incidence disabilities and their families;

"(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

"(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

"(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

"(10) disseminating information on how to reduce racial and ethnic disproportionalities identified under section 618.

"(d) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

"(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Evaluation and Regional Assistance established under the Education Sciences Reform Act.

"(f) APPLICATIONS.—

"(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) STANDARDS.—To the maximum extent feasible, each applicant shall demonstrate that the project described in its application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

"(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

"SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

"(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

"(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities;

"(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children;

"(3) to encourage increased focus on academics and core content areas in special education personnel preparation programs;

"(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom;

"(5) to provide high-quality professional development for principals, superintendents, and other administrators, including training in—

"(A) instructional leadership;

"(B) behavioral supports in the school and classroom;

"(C) paperwork reduction;

"(D) promoting improved collaboration between special education and general education teachers;

"(E) assessment and accountability;

"(F) ensuring effective learning environments; and

"(G) fostering positive relationships with parents; and

"(6) to ensure that all special education teachers teaching in core academic subjects are highly qualified.

"(b) PERSONNEL PREPARATION; AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, including activities for high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a).

"(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

"(A) Promoting activities undertaken by institutions of higher education, local educational agencies, and other local entities—

"(i) to improve and reform their existing programs, and to support effective existing programs, to prepare teachers and related services personnel—

"(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

"(II) to work collaboratively in regular classroom settings; and

"(ii) to incorporate best practices and scientifically based research about preparing personnel—

"(I) so they will have the knowledge and skills to improve educational results for children with disabilities; and

"(II) so they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or overidentification, of children as having a disability, especially minority and limited English proficient children.

"(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce shortages in personnel.

"(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

"(D) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams to improve results for children with disabilities, particularly within the general education curriculum.

"(E) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

"(F) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

"(G) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school board members to improve results for children with disabilities.

"(H) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

"(I) Developing and improving programs to train special education teachers with an expertise in autism spectrum disorders.

"(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

"(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

"(A) Preparing persons who—

"(i) have prior training in educational and other related service fields; and

"(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with low-incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

"(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low-incidence disabilities.

"(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with low-incidence disabilities through early intervention, educational, and transitional services.

"(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

"(E) Preparing personnel who provide services to deaf and hard-of-hearing children by providing direct language and communication access to the general education curriculum through spoken or signed languages, or other modes of communication.

"(F) Preparing personnel to be qualified educational interpreters, to assist children with low-incidence disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

"(3) DEFINITION.—As used in this section, the term 'low-incidence disability' means—

"(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

"(B) a significant cognitive impairment; or

"(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

"(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

"(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

"(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

"(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

"(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

"(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

"(e) APPLICATIONS.—

"(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) IDENTIFIED STATE NEEDS.—

"(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

"(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the project.

"(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide assurances from one or more States that such States—

"(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other re-

quirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities; and

"(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

"(f) SELECTION OF RECIPIENTS.—

"(1) Impact of project.—In selecting recipients under this section, the Secretary shall consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

"(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

"(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

"(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

"(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

"(g) SERVICE OBLIGATION.—

"(1) IN GENERAL.—Each application for funds under subsections (b) and (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

"(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (d) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

"(h) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

"SEC. 666. STUDIES AND EVALUATIONS.

"(a) IN GENERAL.—

"(1) PROGRESS ASSESSMENT.—The Secretary shall, in accordance with the priorities determined under this section and in section 663, directly or through competitive grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

"(A) a free appropriate public education to children with disabilities; and

"(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

"(2) DELEGATION.—Notwithstanding any other provision of law, the Secretary shall designate the Director of the Institute for Education Sciences to carry out this section.

"(3) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support objective studies, evaluations, and assessments, including studies that—

"(A) analyze issues identified in the research agenda in section 663(d);

"(B) meet the standards in section 663(c); and

"(C) undertake one or more of the following:

"(i) An analysis of the measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

"(ii) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

"(iii) An assessment of educational and transitional services and results for children with disabilities from minority backgrounds, including—

"(I) data on—

"(aa) the number of minority children who are referred for special education evaluation;

"(bb) the number of minority children who are receiving special education and related services and their educational or other service placement;

"(cc) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

"(dd) the number of minority children who drop out of the educational system without a regular diploma; and

"(II) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students.

"(iv) A measurement of educational and transitional services and results of children with disabilities served under this Act, including longitudinal studies that—

"(I) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

"(II) examine educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.

"(v) An identification and report on the placement of children with disabilities by disability category.

"(b) NATIONAL ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

"(A) to determine the effectiveness of this Act in achieving its purposes;

"(B) to provide timely information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

"(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

"(2) PUBLIC COMMENT.—

"(A) PLAN.—Not later than 12 months after the date of enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall publish in the Federal Register for public comment a comprehensive plan for developing and conducting the national assessment.

"(B) COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 30 days on such plan.

"(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the—

"(A) implementation of programs assisted under this Act and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable them to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

"(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

"(C) implementation of the professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

"(D) effectiveness of schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary in achieving the purposes of this Act by—

"(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

"(ii) improving the participation of children with disabilities in the general education curriculum;

"(iii) improving the transitions of children with disabilities at natural transition points;

"(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

"(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

"(vi) addressing the reading and literacy needs of children with disabilities;

"(vii) reducing the overidentification of children, especially minority and limited English proficient children, as having a disability;

"(viii) improving the participation of parents of children with disabilities in the education of their children; and

"(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including mediation and voluntary binding arbitration.

"(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

"(A) an interim report that summarizes the preliminary findings of the assessment not later than 30 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003; and

"(B) a final report of the findings of the assessment not later than 5 years after the date of the enactment of such Act.

"(c) ANNUAL REPORT.—The Secretary shall provide an annual report to the Congress that—

"(1) summarizes the research conducted under section 663;

"(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

"(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

"(4) describes the extent and progress of the national assessment; and

"(5) describes the findings and determinations resulting from reviews of State implementation of this Act.

"SEC. 667. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out sections 663, 664, and 666 $171,861,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out section 665 $90,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

"Subpart 3—Supports To Improve Results for Children With Disabilities

"SEC. 671. PURPOSES.

"The purposes of this subpart are to ensure that—

"(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services;

"(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

"(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

"SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.

"(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

"(b) REQUIRED ACTIVITIES.—Each parent and community training and information center that receives assistance under this section shall—

"(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, including underserved parents and parents of children who may be inappropriately identified, to enable children with disabilities—

"(A) to meet developmental and challenging academic achievement goals that have been established for all children; and

"(B) to be prepared to lead productive independent adult lives to the maximum extent possible;

"(2) ensure that the training and information provided meets the needs of low-income parents and parents of children with limited English proficiency;

"(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

"(4) assist parents—

"(A) to better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

"(B) to communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention, transition services, and related services;

"(C) to participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

"(D) to obtain appropriate information about the range, type and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home;

"(E) to understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

"(F) to participate in activities at the school level which benefit their children;

"(5) assist parents in resolving disputes in the most expeditious way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the use of individualized education program facilitators and mediation and voluntary binding arbitration processes described in section 615(e);

"(6) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

"(7) network with appropriate clearinghouses, including organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

"(8) annually report to the Secretary on—

"(A) the number and demographics of parents to whom it provided information and training in the most recently concluded fiscal year; and

"(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

"(c) OPTIONAL ACTIVITIES.—A parent training and community and information center that receives assistance under this section may—

"(1) provide information to teachers and other professionals to assist them in improving results for children with disabilities; and

"(2) assist students with disabilities to understand their rights and responsibilities under section 615(l) on reaching the age of majority.

"(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

"(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

"(2) to work with community-based organizations, including those that work with low-income parents and parents of children with limited English proficiency.

"(e) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

"(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

"(f) QUARTERLY REVIEW.—

"(1) REQUIREMENTS.—

"(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

"(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

"(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

"(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that—

"(1) has a board of directors—

"(A) the majority of whom are parents of children with disabilities ages birth through 26;

"(B) that includes—

"(i) individuals working in the fields of special education, related services, and early intervention; and

"(ii) individuals with disabilities; and

"(C) the parent and professional members of which are broadly representative of the population to be served, including low-income and limited English proficient parents of children with disabilities; or

"(2) has—

"(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

"(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decision-making responsibilities and authority of each.

"SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

"(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

"(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

"(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

"(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

"(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b);

"(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and

"(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

"(c) DEFINITION.—As used is this section, the term 'local parent organization' means a parent organization, as defined in section 672(g), that either—

"(1) has a board of directors the majority of whom are from the community to be served; or

"(2) has—

"(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

"(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

"SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

"(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities (as defined in section 662(b)), provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 672 and 673.

"(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

"(1) effective coordination of parent training efforts;

"(2) dissemination of scientifically based research and information;

"(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

"(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

"(5) including children with disabilities in general education programs;

"(6) facilitation of transitions from—

"(A) early intervention services to preschool;

"(B) preschool to elementary school;

"(C) elementary school to secondary school; and

"(D) secondary school to postsecondary environments; and

"(7) promotion of alternative methods of dispute resolution, including mediation and voluntary binding arbitration.

"SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

"(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities (as defined in section 662(b)) to support activities described in subsections (b) and (c).

"(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

"(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:

"(A) Conducting research on, and promoting the demonstration and use of—

"(i) innovative and emerging technologies for children with disabilities; and

"(ii) improved transfer of technology from research and development to practice.

"(B) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

"(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

"(D) Supporting the implementation of research programs.

"(E) Communicating information on available technology and the uses of such technology to assist children with disabilities.

"(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—In carrying out this section, the Secretary may support—

"(1) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

"(2) providing video description, open captioning, or closed captioning of television programs, videos, or other materials with an education-based content for use in the classroom setting when such services are not provided by the producer or distributor of such information, including programs and materials associated with new and emerging technologies such as CDs, DVDs, video streaming, and other forms of multimedia;

"(3) distributing materials described in paragraphs (1) and (2) through such mechanisms as a loan service; and

"(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.

"(d) APPLICATIONS.—Any eligible entity (as defined in section 662(b)) that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. For purposes of subsection (c)(4), such entity shall—

"(1) be a national, nonprofit entity with a track record of meeting the needs of students with print disabilities through services described in paragraph (4);

"(2) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

"(3) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 674 $32,710,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out sections 672 and 673 $26,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.".

SEC. 402. CONTINUATION OF FUNDING FOR COMMUNITY PARENT AND RESOURCE CENTERS.

Notwithstanding any other provision of law, the Secretary of Education is authorized to use amounts made available for a fiscal year to carry out subpart 3 of part D of the Individuals with Disabilities Education Act (as added by section 401) to continue to provide funding under grants made to, or contracts or cooperative agreements entered into with, local parent organizations under section 683 of such Act (as such section was in effect on October 1, 2002).

PURPOSE

H.R. 1350, the "Improving Education Results for Children with Disabilities Act of 2003," enhances the Individuals with Disabilities Education Act by improving education results for children with disabilities, reducing paperwork to allow teachers to focus on spending more time with their students, reducing unnecessary litigation by improving communication between parents and schools, improving early intervention strategies, reducing overidentification/misidentification of nondisabled children (particularly minority youth), encouraging innovative approaches to parental involvement and parental choice, supporting general education and special education teachers, and ensuring school safety. The bill also restructures the national activities and discretionary programs under the Act on research, professional development, personnel preparation, technical assistance, dissemination of information, parent training and information centers, and community parent resource centers to improve services under the Act.

COMMITTEE ACTION

107TH CONGRESS

Subcommittee hearings

On Thursday, April 18, 2002, the Committee on Education and the Workforce, Subcommittee on Education Reform, held a hearing in Washington, D.C. on "Special Education Finance at the Federal, State and Local Levels." The purpose of this hearing was to gather information about how Federal special education dollars flow to the States and local districts, and what changes should be made in the area of special education finance during the reauthorization of the Individuals with Disabilities Education Act (IDEA). Testifying before the Subcommittee were Mr. Jay G. Chambers, Senior Research Fellow at the American Institute of Research in Palo Alto, California; Dr. John R. Lawrence, President-elect of the American Association of School Administrators and Superintendent of the Troy R–III School District in Troy, Missouri; and Mr. Paul M. Goldfinger, Vice President of School Services of California, Inc., in Sacramento, California.

On Thursday, May 2, 2002, the Committee on Education and the Workforce, Subcommittee on Education Reform, held a hearing in Washington, D.C. on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act." The purpose of this hearing was to learn about several special education-related issues, including (1) how to transform the IDEA from a statute focused primarily on procedural compliance to one emphasizing effectiveness and accountability; (2) how IDEA could be reformed to ensure that special education in this country is better targeted, more cost-efficient, and more effective in improving educational outcomes for students with disabilities; and (3) how to reduce the paperwork burden experienced by teachers and administrators attempting to implement the Federal law and regulations and the State and local requirements based on them. Testifying before the Subcommittee were Dr. Douglas Tyman, Director of the Disruptive Behavior Clinic at A.I. duPont Hospital for Children in Wilmington, Delaware; Dr. Gregory J. Lock, Principal at Oak View Elementary School in Fairfax, Virginia; Ms. Leslie Margolis, a parent in Baltimore, Maryland; Dr. Patrick J. Wolf, Assistant Professor of Public Policy at Georgetown University in Washington, D.C.; and Ms. Katherine Beh Neas, Co-chair of the CCD Education Task Force and Assistant Vice President for Government Relations for the Easter Seals in Washington, D.C.

On Wednesday, May 8, 2002, the Committee on Education and the Workforce, Subcommittee on Education Reform, held a hearing in Washington, D.C. on "State and Local Special Education Programs that Work and Federal Barriers to Innovation." The purpose of this hearing was to learn about several States and school districts that received attention for developing programs or implementing practices that improved the quality of education for students with disabilities. Mr. Lawrence C. Gloeckler, Deputy Commissioner of Vocational and Educational Services for Individuals with Disabilities at the New York State Education Department in Albany, New York; Dr. Richard Schoonover, Director of Student Services at Bellevue Public Schools in Bellevue, Nebraska; Dr. Russell Skiba, Associate Professor at Indiana University in Bloomington, Indiana; Ms. Diane McCain, Director of the Choice Office at the Florida Department of Education in Tallahassee, Florida; and Dr. Sally Arthur, Director of Educational Support Services at Humble Independent School District in Humble, Texas testified before the Subcommittee.

On Thursday, June 6, 2002, the Committee on Education and the Workforce, Subcommittee on Education Reform, held a hearing in Washington, D.C. on "Learning Disabilities and Early Intervention Strategies: How to Improve the Special Education Referral and Identification Process." The purpose of this hearing was to learn how to reform the way that students with various learning disabilities, especially those related to reading, are referred and identified for special education and related services under the IDEA. The Honorable William F. Goodling, educator and former Chairman of the House Committee on Education and the Workforce in Washington, D.C., as well as Dr. Robert Pasternack, Assistant Secretary for Special Education and Rehabilitative Services at the U.S. Department of Education in Washington, D.C. testified on the first panel regarding their recommendations on how to reform IDEA.

Additionally, Dr. G. Reid Lyon, Psychologist and Chief of the Child Development and Behavior Research Branch for the National Institute of Child Health and Human Development in Rockville, Maryland; Dr. Joe Kovaleski, Director of Pupil Services at Cornwall-Lebanon School District in Lititz, Pennsylvania; and Mr. David Gordon, Superintendent of Elk Grove Unified School District in Elk Grove, California testified on the second panel.

Full committee hearings

On Thursday, October 4, 2001, the Committee on Education and the Workforce, held a hearing in Washington, D.C. on "Overidentification Issues Within the Individuals with Disabilities Education Act and the Need for Reform." The purpose of this hearing was to learn about overidentification issues within IDEA. The Honorable Roderick Paige, Secretary of Education at the U.S. Department of Education testified on the first panel. The Honorable Chakkah Fattah, Second Congressional District of Pennsylvania, U.S. House of Representatives, Washington, D.C. testified on the second panel. Additionally, two witnesses testified on the third panel, including Dr. Thomas Hehir, Lecturer on Education at the Graduate School of Education at Harvard University in Cambridge, Massachusetts and Dr. Matthew Ladner, Policy Director for Children First America in Smithville, Texas.

On Wednesday, July 10, 2002, the Committee on Education and the Workforce, held a hearing in Washington, D.C. on "Reforming the Individuals with Disabilities Education Act: Recommendations from the President's Commission on Excellence in Special Education." The purpose of this hearing was to learn about the recommendations for reforming the nation's special education system that were included in the President's Commission on Excellence in Special Education. The Honorable Terry Branstad, Chairman of the President's Commission on Excellence in Special Education testified about the recommendations of the President's Commission.

108TH CONGRESS

Subcommittee hearing

On Thursday, March 13, 2003, the Committee on Education and the Workforce, Subcommittee on Education Reform, held a hearing in Washington, D.C. on "IDEA: Focusing on Improving Results for Children with Disabilities." The purpose of this hearing was to explore a variety of topics, but most importantly paperwork reduction, overidentification of minority children as having disabilities, reducing litigation, and improving the identification process of determining whether a child has a specific learning disability. Testifying before the Subcommittee were Ms. Dianne Talarico, Superintendent of the Canton City School District in Canton, Ohio; Dr. Harriet Brown, Director of Exceptional Special Education Policy and Procedures in Orlando, Florida; Dr. Douglass Carnine, Director and Professor at the National Center to Improve the Tools of Educators at the University of Oregon in Eugene, Oregon; and Dr. Larry Lorton, Superintendent of the Caroline County School District in Denton, Maryland.

Legislative action

On March 19, 2003, Michael N. Castle (R–DE), Chairman of the Subcommittee on Education Reform, and Chairman John Boehner (R–OH) introduced H.R. 1350, the Improving Education Results for Children with Disabilities Act, a bill to amend and reauthorize the Individuals with Disabilities Education Act of 1997. This legislation would improve special education programs in our nation's schools.

On April 2, 2003, the Subcommittee on Education Reform considered H.R. 1350 in legislative session and reported it favorably, as amended, to the Committee on Education and the Workforce by voice vote. The Subcommittee accepted several amendments:

• The Subcommittee adopted, by voice vote, a substitute amendment offered by Mr. Castle (R–DE). The substitute restored benchmarks and short-term objectives for all children with disabilities until the 2005–2006 school year, which is when the report card requirements of No Child Left Behind must be implemented; restored current law formula calculations for the State-level activities, limiting the State-level funds to an amount based on the 1997 funding level, which averages between 8–11% for each State; requires States to use a portion of their funds for accountability grants to local educational agencies to provide services to districts identified as low performing under Title I of the Elementary and Secondary Education Act as a result of the disaggregated subgroup of students with disabilities; established indicators related to academic achievement, graduation, and dropout rates, and allows the Secretary to establish other indicators on which to judge the performance of States; and transferred the special education research functions to the Institute of Education Sciences.

• The Subcommittee adopted, by unanimous consent, a technical amendment offered by Mr. Osborne (R–NE).

• The Subcommittee adopted, by voice vote, an amendment offered by Mrs. Biggert (R–IL) regarding homeless children.

• The Subcommittee adopted, by voice vote, an amendment offered by Mrs. Musgrave (R–CO) that would prohibit Federal mandates, direction, or control of the curriculum of local educational agencies.

• The Subcommittee adopted, by voice vote, an amendment offered by Ms. Majette (D–GA) to collect information on disciplinary actions taken by local educational agencies.

• The Subcommittee adopted, by voice vote, an amendment offered by Mr. Kind (D–SC) regarding professional development.

• The Subcommittee adopted, by voice vote, an amendment offered by Mr. DeMint (R–SC) that allows States to expand Part C to continue to serve 3–5 year old children with disabilities at the option of the parents.

On April 9 and 10, 2003, the Committee on Education and the Workforce considered H.R. 1350 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 29–19. The Committee considered 29 amendments and adopted the following 13 amendments:

• The Committee adopted, by voice vote, a substitute offered by Subcommittee Chairman Castle (R–DE). The substitute ensured that related services personnel are included in professional development activities to provide training for these individuals to ensure that their services are aligned with activities in the classroom;

made several changes in Part D National Activities to ensure that the needs of minority students with disabilities are met; and improved upon the consultation between private schools and public schools for determining how to address the needs and coordinate services for children with disabilities placed in private schools by their parents.

• The Committee adopted, by voice vote, an amendment offered by Mr. Porter (R–NV) adjusting the authorization of appropriations to reflect the FY 2004 Budget Resolution Conference Report.

• The Committee adopted, by voice vote, a technical amendment offered by Mr. Osborne (R–NE).

• The Committee adopted, by voice vote, an amendment offered by Mr. Burns (R–GA) that would ensure that States have policies and procedures in effect to prohibit school personnel from requiring a student to obtain a prescription for a controlled substance in order to remain in the classroom.

• The Committee adopted, by voice vote, an en bloc amendment offered by Mr. Kind (D–WI) that would allow States to reserve funds to establish cost sharing programs for high cost special education and related services and require a GAO study on distance learning professional development opportunities for special education teachers.

• The Committee adopted, by voice vote, an en bloc amendment offered by Mr. Hinojosa (D–TX), pertaining to the transfer of records of migrant children and a GAO study on limited English proficient students with disabilities.

• The Committee adopted, by voice vote, an amendment offered by Mr. Owens (D–NY) to restore the community parent resource centers.

• The Committee adopted, by voice vote, an amendment by Mr. Andrews (D–NJ) to include speech therapy in prereferral services.

• The Committee adopted, by voice vote, an amendment by Mr. Andrews (D–NJ) to amend the limit on the percentage of students with disabilities for which a State may receive Federal funding.

• The Committee adopted, by voice vote, an amendment offered by Mr. Case (D–HI) to limit attorney's fees.

• The Committee adopted, by voice vote, an amendment offered by Ms. Majette (D–GA) to require GAO to conduct a study regarding certain State definitions and evaluations.

• The Committee adopted, by voice vote, an amendment offered by Mrs. Davis (D–CA) pertaining to exit evaluations.

• The Committee adopted, by unanimous consent, an amendment offered by Mrs. Davis (D–CA), which would prevent screenings by teachers from being considered as evaluations for special education eligibility.

SUMMARY

H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003, reauthorizes and amends the Individuals with Disabilities Education Act (IDEA), which provides support and protections for children with disabilities to ensure that they have access to a free appropriate public education in the least restrictive environment. The legislation amends Part B—Assistance for Education of All Children with Disabilities, which supports programs for children aged 3 through 5 years old and children aged

6 through 21 years old. The Part B program is permanently authorized. The legislation amends and reauthorizes the Part C—Infants and Toddlers with Disabilities program that provides supports, services, and protections for children with disabilities aged birth through 2, and also amends and reauthorizes the Part D—National Activities to Improve Education of Children with Disabilities programs.

H.R. 1350 is centered around the following principles for reform:

• *Increasing accountability and improving education results for students with disabilities.* Currently, the Act places too much emphasis on compliance with complicated rules, and not enough emphasis on ensuring that academic results are being delivered for children with special needs. As a result of this misplaced emphasis, too many children in special education classes have been left behind academically. The No Child Left Behind Act (NCLB), signed into law by President Bush in January 2002, calls for federally funded schools to be held accountable to parents for improving results for all students, including students with disabilities, for the first time ever. Aligning the IDEA's accountability system with NCLB is essential to ensuring that children with disabilities have the chance to learn and succeed academically. H.R. 1350 ensures that States align their accountability systems for students with disabilities to the NCLB accountability system and requires each child's Individualized Education Plan (IEP) to specifically address that child's academic achievement. The bill also improves the focus of Part C Infants and Toddlers program to include the acquisition of pre-literacy skills to improve the school readiness of these children with disabilities.

H.R. 1350 makes significant changes to the U.S. Department of Education's (Department) activities on research of special education. The bill establishes a National Center for Special Education Research within the Institute of Education Sciences and authorizes the creation of a Commissioner for Special Education Research to oversee the Institute's research into special education and related services. The bill requires the Commissioner, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, to develop a research plan to support the activities of the Act and is designed to serve the long-term interests of the Act. The bill unifies all of the education research at the Department under one entity, the Institute for Education Sciences, that takes a broad view at the needs of education research, including special education research. This move will help ensure that the needs of children with disabilities are fully addressed not only within that arm of the Institute, but through all other research functions at the Institute. The Committee also intends this move to improve the overall quality and rigor of the special education research conducted by the Department, and to ensure that the needs of children with disabilities are included throughout other research programs conducted at the Institute.

• *Reducing the paperwork burden.* Special education teachers are leaving the profession out of frustration with the overwhelming and unnecessary paperwork burden, contributing to what is becoming a chronic shortage of quality teachers in special education. H.R. 1350 incorporates such changes as the multi-year IEP, the use of teleconferencing and video conferencing, and the development of

model forms for the IEP and procedural safeguards notice. The bill also allows the Secretary to create a ten State pilot program that allows SEAs to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources and improve results for students with disabilities. Recognizing that parents will receive report cards on their children under the No Child Left Behind Act, the duplicative use of benchmarks and short-term objectives is eliminated for most children with disabilities beginning in the 2005–2006 school year. However, these benchmarks or short-term objectives will be allowed to continue beyond that date for students taking alternate assessments aligned to alternate standards. Finally, the bill makes clear that nothing beyond what is clearly laid out in statute is required to be in an IEP.

• *Improving early intervention strategies and reducing the overidentification or misidentification of nondisabled children, including minority youth.* The overidentification of children as disabled and placing them in special education where they do not belong hinders the academic development of these students. Worse, the misidentification takes valuable resources away from students who truly are disabled. Experts agree that strengthening the quality of reading instruction programs across the nation will significantly strengthen special education and address this problem directly. This bill allows local educational agencies to use up to fifteen percent of their funds for prereferral services for students before they are identified as needing special education. States are also allowed to establish a definition for "developmental delay" for three to five year olds to simplify the provision of services and continue to assist these children to become ready to begin school.

A disproportionate number of minority students are wrongly placed in special education rather than being provided positive behavioral interventions and supports and intensive educational interventions. As Education Secretary Rod Paige has noted, studies show the proportion of minority students identified in some disability categories is dramatically greater than their share of the overall population. More specifically, African-American students are labeled as mentally retarded and emotionally disturbed far out of proportion to their share of the student population. For minority students, misclassification or inappropriate placement in special education programs can have significant adverse consequences, particularly when these students are being removed from regular education settings and denied access to the core curriculum. This bill requires local educational agencies with significant overidentification of minority students to operate pre-referral programs that work to reduce overidentification. It also eliminates the sole reliance on a "wait to fail" approach for identification of "specific learning disabilities" by allowing the use of other methods besides the outdated IQ-achievement discrepancy model. The bill encourages the greater use of programs that rely on positive behavioral interventions and supports.

• *Encouraging innovative approaches to parental involvement and parental choice.* Parents should be active participants in their child's education experience. However, often under the current Act, parents of students with disabilities are not fully informed or are often given limited options of where or how their child can be educated. H.R. 1350 enables parents and local educational agencies to

work together to make the IEP process work better to serve its intent—improving the education of the child with a disability. Specifically, this bill allows parents and the local educational agency to mutually agree to change the IEP without holding an IEP meeting and excuse the attendance of any IEP team member not needed at a specific meeting.

The bill continues to encourage parents to make the best educational choice for their child by requiring local educational agencies to support their charter schools by providing services on site and distributing funds to charter schools in an equitable manner. H.R. 1350 also allows school districts to use Part B funds to support supplemental educational services for students with disabilities in schools identified in need of improvement under NCLB. Finally, the bill reforms the parent training centers to focus on all children with disabilities and serve all parents of children with disabilities, especially low-income, minority, and limited English proficient parents.

• *Supporting general education and special education teachers.* A continuing shortage of special education teachers, coupled with a shortage of regular education teachers who are adequately trained to work with students with disabilities, hinders the educational achievement of students with disabilities under current law. Both current and prospective special education and general education teachers should have professional development to address the educational needs of students with disabilities. H.R. 1350 aligns the Act with requirements of NCLB for "highly qualified" teachers so that all students with disabilities are taught by a highly qualified teacher in core content areas.

The bill refocuses various areas of Part D to support general education and special education teachers, principals, and related services providers to better serve children with disabilities. First, the State Professional Development Grants (formerly State Improvement Grants) are concentrated on professional development for school personnel working with students with disabilities. Second the Personnel Preparation programs are streamlined and enhanced to encourage training of general education and education teachers, principals, and related services providers to work with students with disabilities. Finally, the National Activities technical assistance programs have a focus on providing assistance to teachers for their specific use in the classroom.

• *Restoring trust and reducing litigation.* Litigation under the Act has taken the less productive track of searching for technical violations of the Act by school districts rather than being used to protect the substantive rights of children with disabilities. This type of litigation breeds an attitude of distrust between the parents and the school personnel rather than working cooperatively to find the best education placement and services for the child. H.R. 1350 requires complaints that are filed to be clear and specific and establishes a statute of limitations of one year from the date of the violation. After a complaint is filed, a resolution session gives local educational agencies a 30-day opportunity to meet with the parents to address in detail any complaints before a due process hearing may occur, within the current 45-day timeline for hearings. Only issues that have already been raised at an IEP team meeting or the resolution session may be raised at a due process hearing. The

bill encourages the use of mediation and voluntary binding arbitration to speed the resolution time so that children with disabilities obtain the needed services and education in a timely manner. The bill also provides a rational system of determining attorney fees by requiring the Governor to set the rate of attorney's fees that may be awarded for actions under this Act that arise in their State

• *Ensuring school safety.* Schools should be safe for all students and teachers. All students should be treated the same when it comes to discipline issues to ensure safety for all at the school. H.R. 1350 eliminates the dual discipline system while requiring that educational services continue for a child with a disability that violates the school code of conduct. If a violation results in a three-day punishment for a child without a disability, the child with a disability would receive the same punishment, while continuing to receive educational services. The change allows school personnel to place a child with a disability that violates the school code of conduct policy in an alternative setting for up to 45 school days, unless State law provides for a longer term. Where State law has longer consequences for specific incidents (typically incidents involving weapons, drugs, aggravated assault, or pulling a fire alarm), State law would be followed, except educational services would continue to be provided for children with disabilities.

• *Reforming special education funding.* The funding stream under the Act establishes a clear path to reach the 40 percent goal through the discretionary appropriations process.

COMMITTEE VIEWS

TITLE I—GENERAL PROVISIONS

Section 101. Sections 601 through 603 of the Individuals with Disabilities Education Act

Section 601. Short Title; table of contents; findings; purpose

Section 601 updates the table of contents to reflect changes made throughout the Act and updates and modifies the findings to reflect current data on the importance and continued need for special education and related services for the nation's children with disabilities. One of the purposes of the Act is updated to reflect the importance of holding high standards for children with disabilities. The purpose of special education and related services is to ensure that children with disabilities are able to focus on their strengths and interests to become integrated into the mainstream of American society. By modifying the purpose to reflect the importance of further education, the Committee intends to send the message that children with disabilities have a broad array of opportunities available to them when they complete their secondary education and that children with disabilities can continue on to post-secondary education or to competitive employment or independent living.

Section 602. Definitions

Section 602 of the Act retains all of the definitions from the current Act, and adds or expands on a few of those definitions. The bill amends the definition of a child with a disability ages three through nine to include any subset of that age range, including ages three through five. This change is not intended to change or alter the scope of services provided to children ages three through nine, but to clarify to States that they have the flexibility to have

a definition of developmental delay for a child with a disability ages three through five. The intent of this new provision is to allow States to provide services to that limited population of children that are provided services under the Part C program under the category of developmental delay, but are occasionally denied services under the Part B Section 619 program if the State does not have a definition of developmental delay for that age range. A child at the age of three should not be denied services due to a transition problem between the two programs.

The bill adds a new definition of "highly qualified," as it relates to teachers, to give that term the same meaning as it has in the Elementary and Secondary Education Act. The Committee wants to make it clear that all teachers teaching in core academic subjects should be qualified to teach their students, especially students with disabilities. The Committee believes that the requirements outlined under the No Child Left Behind Act provide a solid foundation for all teachers to ensure that all students are taught by a qualified instructor.

The Committee wishes to clarify whether school nursing services are considered related services under the Act. School nursing services may be an appropriate related service for children with educationally-related medical needs. School nurses and school nursing services are utilized to help students with disabilities participate fully in schools. School nurses may be the primary caregivers in schools, providing the specialized health services many children with disabilities require to assure their inclusion, health and safety in school.

Section 102. Sections 605 through 607 of the Individuals with Disabilities Education Act

Section 606. Employment of Individuals with Disabilities.

Section 606 is amended to reflect the importance of providing positive role models to children with disabilities. The Committee encourages the Secretary of Education (Secretary), State Departments of Education, and local educational agencies to continue to make positive efforts to employ individuals with disabilities as teachers, related services personnel, early intervention providers, and school administrators.

Section 607. Requirements for Prescribing Regulations.

Section 607 is significantly revised to reflect the Committee's intent to implement the enacted law in an efficient and effective manner. The changes provide States and local educational agencies with the secure knowledge that once the law and implementing regulations are finalized there will not be significant changes in the way the law is interpreted or implemented without the opportunity to react to such changes. The bill consolidates language on regulations that is spread throughout several sections of the current Act in order to have a clear, concise section on the Department's authority to regulate under the Act.

The bill clearly expresses the intent of the Committee that the Secretary should only regulate where necessary and to ensure compliance with the Act. Further, the Secretary is prohibited from issuing regulations that violate or contradict the clear provisions of the Act. The Committee understands that the implementing regulations for the current Act have caused confusion where the Act is

clear, and have made the implementation of the Act too complicated. The Committee encourages the Secretary to take a careful and deliberate approach to developing regulations, and to expedite the regulatory process as quickly as possible so that parents, teachers, school officials, and States can have a thorough and complete understanding of the law and regulations within one year of the date of enactment of the bill.

The Committee also feels that, while it is important to solicit public input on the implementing regulations, it is also equally important to keep the regulatory process from causing undue delay in finalizing regulations so that States and local educational agencies can begin to implement the reauthorized law in a timely manner. The bill requires the Secretary to allow public input for at least 60 days on any regulations issued under this Act. The Committee recognizes the significant public interest in this Act, and feels that this timeline is sufficient to allow individuals the opportunity to review and comment on any proposed regulations.

The bill makes several changes to the requirements regarding policy letters from the Secretary. The Committee feels that the Secretary should be particularly thoughtful in issuing policy letters. The bill maintains the requirement that policy letters be published in the Federal Register on a quarterly basis to ensure that there is adequate public information about any interpretations of policy the Department issues. H.R. 1350 requires the Secretary to subject policy letters that establish a rule of compliance to public comment requirements to ensure that there is adequate notice regarding the Department's interpretation of the Act. Additionally, the bill requires the Secretary to clearly state that any particular policy letter is written solely to the specific facts of that letter and should not be generally interpreted or applied to other situations or presentment of facts.

The Committee recognizes the need for the Secretary to issue correspondence under the Act for a variety of reasons; however, the Committee is concerned that previous policy letters have had the impact of being interpreted by States and local educational agencies to be binding upon them, even in unrelated situations or circumstances. The Secretary has the ability, through the regulatory process, to impose rules for complying with the Act, and should not attempt to use policy letters to subvert the rulemaking process. This section does not prohibit or prevent the Secretary from issuing standard letters of communication regarding specific language in the bill or implementing regulations, but requires the Secretary to carefully delineate responses that go beyond a mere recitation of law or regulation to offering a policy interpretation. Any letter issued after the date of enactment of the Improving Education Results for Children with Disabilities Act that purports to offer an interpretation of policy is subject to the new requirements of the bill.

Section 103. Section 608 of the Individuals with Disabilities Education Act

Section 608 is a new section of the Act regarding the efforts of States to establish their own rules and regulatory systems to ensure compliance with the Act. The Committee feels that there is a tremendous amount of confusion about the level of requirements under the Act, and that it is often convenient to place responsibility

for the burden of the requirements on the Act or regulations. While the Committee agrees that the Act and regulations should be clear and concise, it is also clear that State and local educational agencies have added to their own burdens by making additional requirements for compliance with individual State laws regarding the education of children with disabilities. The Committee is in no way attempting to reduce State input or State practice in this area, but intends to make clear what is a Federal obligation and what is a State or local educational agency requirement for compliance with the Act. States are encouraged to streamline their own rules, regulations, and policies relating to this Act to reduce unnecessary duplication or burdensome requirements that do not add value to the education of children with disabilities. States are also encouraged to maintain their focus on improving results for children with disabilities, rather than on process compliance, and to ensure that all State policies are designed to support the improved academic achievement of all students.

Section 104. GAO review; report

The Committee is very interested in reducing the paperwork burden on teachers, schools, local educational agencies, and States. To that end, the bill calls for an independent review of the paperwork requirements under the Act to determine which requirements are responsible for causing the burden. The bill calls on the Comptroller General to issue a comprehensive report regarding the paperwork requirements to enable Congress to determine what appropriate steps can be made to reduce that burden and enable teachers to spend more time in the classroom with children with disabilities.

Section 105. GAO review of certain State definitions and evaluation processes

To address the issue of over- and under-inclusion of students in special education, the bill requires the Comptroller General to study the disparity between the different interpretations of the subcategories of "child with a disability" in which there is the greatest variability between States in terms of which students are served by the Act. This study will look at the degree to which State interpretations take scientific advancements into account. This study will allow Congress to review these definitions and further increase uniformity of application across States thus ensuring that every child receive the education most appropriate for their particular needs.

Section 106. Additional GAO study and report

To maintain certification and currency in special education in many States, teachers are required to obtain professional development training at specified times. Special education personnel, however, find it difficult to commute to institutions of higher education for training, and this problem can be especially pronounced in rural school systems. Additionally, to better assist States in encouraging the development and use of distance learning and technology for special education personnel, it is critical to raise the awareness of what is currently available in the area of distance learning professional development. Thus, the bill calls for the Comptroller General

study to research the existing and developing distance learning and technology programs offered to special education personnel. This knowledge will help better focus resources and time on developing programs where they are needed.

Section 107. GAO study on limited English proficient students

The bill requires the Comptroller General to study on how limited English proficient children are being served under this Act. This study should consider the process from assessment to identification to the development of the IEP and the delivery of services. The report should discuss any barriers that those children and their families face in accessing special education services at each point in the process, what States and local educational agencies are doing to reduce these barriers, and what additional resources are required to improve special education services for limited English proficient children. The report should focus particular attention on the involvement of bilingual professionals and experts in the field of bilingual education and teaching English as a second language in the identification assessment, IEP team meetings, parental involvement, and delivery of instructional and other services to limited English proficient children with disabilities. The report should report on educational results, including academic achievement in the core subject areas, English language acquisition, and graduation rates, for limited English proficient children with disabilities.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

Section 201. Authorization; allotment; use of funds; authorization of appropriations

Section 611. Authorization; Allotment; Use of Funds; Authorization of Appropriations

Section 611 of the bill retains the existing formula that sends all funds above the fiscal year 1999 level through a funding formula to the States based 85 percent on the State's census data for children aged 3 through 21 (if the State provides FAPE to children of these ages), and 15 percent on the State's poverty rate for children aged three through twenty-one. Distribution of Part B funds within States will be on the same basis.

The bill continues to include State minimum and maximum thresholds within the formula to ensure that there is an equitable distribution of Federal resources through the formula. The Committee feels that these aspects of the formula have been proven to be an effective and efficient manner of distributing resources to the States.

In addition, the Committee seeks to clarify the treatment of the Freely Associated States (FAS)—the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau—for the purposes of receiving funds under this IDEA. The Committee wishes to make clear that the provisions of P.L. 106–504 govern the distribution of funds under IDEA to the FAS. Specifically, section 3 of P.L. 106–504 states that the FAS will remain eligible for any Federal programs, grant assistance, or services of the United States that they were eligible for October, 1, 1999. This period of eligibility is to continue through the negotiations on an

extension of the Compact of Free Association and during the consideration by Congress of any such extension. The FAS were eligible to receive funds under IDEA on October 1, 1999. Therefore, the FAS remain eligible for funding under IDEA and the amendments made to IDEA by the Improving Educational Results for Children with Disabilities Act of 2003.

Formula cap

The Committee is concerned that there continues to be a problem with the overidentification of children, particularly minority children, as having disabilities. To that end, the Committee has restored a provision within the funding formula placing a limit on the number of students that can be identified for the purpose of generating funds under the Act. The provision places an absolute maximum that is designed, as the 40 percent level is reached, to prevent States and local educational agencies from overidentifying students in order to increase the level of funds distributed through the formula. In no way is this limitation intended to restrict the number of children that States can or should identify through appropriate and scientifically based evaluation methods. States can, and must, continue to conduct appropriate child find activities to ensure that all children with disabilities are identified and offered services under the Act.

The Committee does not believe that individual educators identify children in order to maximize the level of funds that flow to the school, district, or State. However, the financial incentive that some State funding mechanisms have put in place may unintentionally create an incentive to identify children as having a disability, or prevent educators or school systems from appropriately moving a child out of special education. The Committee encourages States to reexamine their funding mechanisms to ensure that these unintended incentives do not exist in their funding mechanisms, and encourages States to adopt placement neutral funding patterns that do not create the potential for abuse.

State-level activities

The bill continues the existing funding mechanism for retention of funds at the State level. States are allowed to set aside a portion of these funds for the effective administration of the Act. This amount is linked to the appropriated funding level of fiscal year 1997 and is increased at an annual rate to match the rate of inflation or the appropriation increase, whichever is lower. Due to the unprecedented increases that Congress has provided over the past several years, States have been able to reserve inflationary increases for their State level funds.

The Committee has been made increasingly aware of the need within States to address the problems districts face when a child with very expensive special needs is enrolled in the local educational agency. Local educational agencies are often overwhelmed by the costs associated with a child with expensive needs, but are committed to providing such children an appropriate education. The Committee recognizes and applauds the efforts of several States to address this problem and feels that the Act should provide assistance to those efforts and serve to encourage other States to take similar efforts.

To meet this need, the bill allows States to reserve a portion of their State level funds for establishing and implementing a variety of funding mechanisms, consistent with State law or practice, to provide assistance to local educational agencies to address the financial burden that a child with high cost needs presents to a local educational agency. The bill does not establish a set model or specific program that States must create. Instead the Committee feels it is best to rely on the creativity of the States to determine the best methods of meeting these needs.

Additionally, States are allowed to use their State level funds for other State activities to support local educational agency efforts to provide special education and related services to children with disabilities. The Committee feels that it is important to use these funds for the costs associated with general supervision, monitoring, and enforcement by States and local educational agencies. In addition, the Committee feels that these State level activities are important to help effectively implement the law, and encourages States to use these funds efficiently and creatively to maximize the impact of these funds.

The bill also retains the language that requires the States to distribute any funds reserved at the State level in excess of the increase larger than the rate of inflation directly to local educational agencies. However, the Committee has made a significant change to this provision by seeking to align the activities supported by this funding stream to activities undertaken through the No Child Left Behind Act. States will be required to use these funds to provide technical assistance and direct services to local educational agencies that have been identified as being in need of improvement due to the assessment results of students with disabilities. Local educational agencies will use these funds to provide services to schools, including professional development for special education and regular education teachers, to improve results for children with disabilities.

The Committee believes that these are important activities and are an essential component of the effort to improve academic achievement for children with disabilities. The No Child Left Behind Act, signed into law by President Bush in January 2002, calls for Federally funded schools to be held accountable to parents for improving results for all students, including students with disabilities, for the first time ever. Aligning the IDEA's accountability system with the No Child Left Behind Act is essential to ensuring that children with disabilities have the chance to learn and succeed academically. This activity will help that alignment and ensure that local educational agencies are focusing on improving results for children with disabilities.

Bureau of Indian Affairs schools

The Committee is also concerned about reports that funds have not been distributed in an effective and efficient manner to schools under the jurisdiction of the Bureau of Indian Affairs (BIA). The bill requires the Secretary of the Interior to take affirmative steps to ensure that the allotted funds are distributed quickly to the BIA schools in order to ensure that these schools have the resources they need to provide services to children with disabilities. Consistent with other reporting requirements, the bill requires that the

Secretary of the Interior provide an annual report on the condition of special education and related services in BIA schools and has updated language in this section to that effect.

Funding

In 1975, when the Act was originally enacted, Congress established the goal of providing up to 40 percent of the national average per pupil expenditure to assist States and local educational agencies with the excess costs of educating students with disabilities. Historically, the appropriations for the Act have not come close to reaching the 40 percent level. In the years prior to 1995, funding for the Part B program reached roughly 7 percent of the average per pupil expenditure.

Funding for the Individuals with Disabilities Act (IDEA) has been increased by nearly 300 percent during the previous seven years of Republican leadership, with special education grants to states reaching nearly $9 billion in fiscal year 2003. This comes in stark contrast to special education funding during the previous seven years of Democrat control, during which special education grants to states increased by less than $1 billion overall. Under Republican control, Congress has shown unwavering support for the needs of children with disabilities by providing funding increases at an average yearly level of 18.6 percent—a rate of increase showing clear determination to ensure the federal share of special education costs reaches 40 percent.

In H.R. 1350, the Committee has established a clear and genuine pattern to reach the 40 percent goal within the next seven years. The Committee strongly supports the action taken in the FY 2004 Budget Resolution Conference Report which includes a $2.2 billion increase for FY 2004 over the previous year and a $2.5 billion increase for FY 2005 over the FY 2004 level. This is a clear commitment from this Committee to reach the 40 percent goal, and is the most realistic and straightforward approach that should be taken.

The bill also maintains the Act as a discretionary program. The Committee feels that making the Act a mandatory funding program would create great difficulty in making necessary changes to the program in future years to improve services for children with disabilities. Under mandatory programs, any changes must be scored to determine their financial impact. Any changes or improvements to the program in future years that cost money would require other offsets to be found to pay for any changes. In the long run, making the Act a mandatory funding program could prevent the Act from receiving substantial funding increases. In the late 1980s the Vocational Rehabilitation State Grant program was made mandatory through a required annual cost of living increase. Since then, the program receives only this cost of living increase. The Part B program of the Act is experiencing much more substantial funding increases as a discretionary program.

Section 202. State eligibility

Section 612. State Eligibility.

Section 612 establishes the conditions of State eligibility for Part B funds. Most provisions are retained from current law and new provisions have been added to improve services and compliance with the Act.

The Committee is concerned that the Department has overemphasized compliance with process and relied on gathering paperwork in determining the eligibility of the States under the Act. While the Committee agrees that States should be able to demonstrate their intention and ability to comply with the provisions of the law, the Committee also recognizes that the Department has occasionally been overzealous in its oversight responsibility. Accordingly, the bill includes language modifying the standard of oversight to allow States to reasonably demonstrate to the Secretary that the State has in effect policies and procedures to ensure compliance with the Act. The Committee does not intend this to imply that the States do not need to implement effective policies or procedures under the Act or demonstrate the existence of effective policies and procedures. The change in language is not intended to provide a rationalization to States for failure to effectively implement the Act. Instead, the change is intended to ensure that the Secretary is focused on ensuring overall compliance with the Act and not forcing States to change individual words or phrases within their laws, policies, or regulations unless there is a clear contradiction of substantive portions of the Act. For example, this provision would allow States to include in its application cites to specific policies or procedures; however, it would no longer require State to send boxes upon boxes of copies of each policy or procedure for the Department to review.

Private school students

The bill makes a number of changes to clarify the responsibility of local educational agencies to children with disabilities who are placed by their parents in private schools. The Committee feels that these are important changes that will resolve a number of issues that have been the subject of an increasing amount of contention in the last few years. First, the bill clarifies that the proportional amount of money obliged to be used to provide special education and related services to children in the State with disabilities who have been placed by their parents in private schools must be used to provide some direct services. The Committee expects that the majority of the funds expended for this purpose will be for direct services, while the remainder may be used for indirect services such as professional development of private school teachers to work with children with disabilities and counseling to assist private school personnel in meeting the needs of the child with a disability. Further, the bill retains language in current law making it clear that the cost of evaluating these children under a State's child find process may not be considered in meeting the proportional obligation.

Second, the bill requires local educational agencies to document the number of these children served with the proportional funds. Such requirement ensures that these funds are serving their intended purpose. Third, the bill continues to point out that local educational agencies may provide the special education and related services funded under Part B on the premises of private, including religious, schools.

This provision, originally designed to implement the principle in the Supreme Court decision, *Zobrest* v. *Catalina Foothills School District* (holding that a sign interpreter for a deaf student at his

parochial school paid with Part B funds was not a violation of the Establishment Clause of the First Amendment), remains in this bill. The Committee wishes to make clear that local educational agencies should provide direct services for parentally-placed private school students with disabilities (as for most students) on site at their school, unless there is a compelling rationale for such off-site services. Such intent indicates the preference that providing services on site at the private school is more appropriate for the student and less costly in terms of transportation and liability.

The bill addresses how child find should be conducted for parentally-placed private school children with disabilities. The bill requires that a State's child find process be designed to ensure the equitable participation of these children. Local educational agencies must undertake similar activities to identify these children as it does for its other public school children.

Finally, the bill spells out the required consultation process between the local educational agency and representatives of children with disabilities parentally-placed in private schools (including both parents and private school officials) to be used in designing and developing special education and related services for these children. The consultation must occur on the issues of the child find process, the determination of the proportional share, the continuous evaluation of children throughout the school year, and the provision of special education and related services. If private school officials believe the consultation process has not been followed, they have the right to appeal to the State Educational Agency, a process similar to appeal available to them under section 1120(b)(5) of Title I of the Elementary and Secondary Education Act of 1965. The bill further clarifies that the provision of special education and related services may be made by either the local educational agency or through contracts by the local educational agency with an individual, association, agency, organization or other entity, as long as the title to any materials, equipment or property remain with and all administered by the local educational agency.

Special education teachers

The bill makes several changes to sections 612(a)(14) and (15). The bill eliminates section 612(a)(14) that requires States to develop a comprehensive system of personnel development. The Committee is not convinced that the current requirement has proven to be of any added value to State efforts to secure an adequate supply of qualified personnel and has, instead, become a burdensome paperwork exercise. The bill also requires States to ensure that special education teachers that teach in a core academic subject are highly qualified in those subjects. This is one of the several important links that the Committee has made between this Act and the No Child Left Behind Act. Under the No Child Left Behind Act, Congress established rigorous criteria that all teachers, including special education teachers, must meet in order for the State to receive Federal funding. The Committee believes that this bill should reflect those important changes and ensure that all children, including children with disabilities, are taught by a highly qualified teacher.

The bill also eliminates language allowing local educational agencies to delay the hiring of adequately trained personnel for three

years. The Committee takes this action for two reasons. First, by aligning with the No Child Left Behind Act, the Committee feels that there is adequate flexibility in the hiring and training of teachers. Second, as discussed below, by eliminating the requirement that related services personnel need to meet the highest certification in the State for the profession, the Committee feels that it is reasonable to expect States and local educational agencies to provide an adequate supply of highly qualified, well-trained individuals to provide related services.

To maintain certification and currency in special education in most States, teachers are required to obtain professional development training at specified times. Special education personnel, however, find it difficult to impossible to commute to institutions of higher education for training. This problem can be especially pronounced in rural school systems. The Committee is interested in encouraging States to develop and use distance-learning technology for professional development for special education personnel. Accordingly, the bill includes a requirement that States implement distance-learning opportunities for professional development programs to benefit special education teachers. Yet, the Committee also recognizes that this may take time and does not intend for the States to be penalized for not having such distance programs available immediately for all special education personnel.

As it relates to related services personnel, the bill removes language from current law that forces States to ensure that these personnel meet the highest requirement in the State applicable to a specific profession. While the Committee is interested in securing a high quality workforce to provide services to children with disabilities under the Act, the Committee does not feel it is advantageous to require States to meet an unreasonably high threshold, which has the effect of making the provision of these services increasingly scarce and more expensive. Therefore the Committee eliminated this requirement while still allowing States to establish their own measures of high quality related services personnel.

Academic achievement of children with disabilities

The bill makes a series of significant modifications to reflect the important changes to accountability that were enacted under the No Child Left Behind Act. The No Child Left Behind Act established a rigorous accountability system for States and local educational agencies to ensure that all children, including children with disabilities, are held to high academic achievement standards and that States and local educational agencies are held accountable for the adequate yearly progress of all students. Most importantly, the No Child Left Behind Act requires schools and local educational agencies to disaggregate their data to examine the results of children with disabilities and ensure that such subgroup is making adequate yearly progress towards reaching proficiency. The bill carefully aligns the IDEA with the accountability system established under the No Child Left Behind Act to ensure that there is one unified system of accountability for States, local educational agencies, and schools.

Assessments

Section 612(a)(16) makes clear that the requirements of the No Child Left Behind Act regarding participation of children with disabilities in State and district-wide assessment systems applies under the Act. The bill requires States to ensure that all children with disabilities participate in the general State and district-wide assessment programs, with appropriate accommodations, as necessary. The bill also encourages States to develop and implement appropriate and rigorous alternate assessments aligned to State standards for students that cannot participate in the regular assessment. The Committee recognizes that this is not a new requirement and that States are currently under the obligation to have in place alternate assessments for their students. However, since many States have failed to implement this existing provision, the Committee encourages the Secretary to take this failure into consideration for compliance purposes. While the Committee is encouraged at actions taken by the Secretary in the most recent fiscal year, the Committee reminds the States and the Secretary that this requirement is one of the many conditions that must be met in order to be eligible to receive funds under Part B of the Act and that failure to meet this condition may place a State's eligibility in jeopardy.

The bill also makes clear that States have an affirmative obligation to determine what types of accommodations can be made to assessments while maintaining their reliability and validity. The bill requires States to develop and implement guidelines on appropriate accommodations. The Committee intends that this provision will serve as a valuable tool for the IEP Team as they determine which assessments a child with a disability should take, and which accommodations are appropriate. The Committee is intent on ensuring that each child with a disability receives appropriate accommodations, but is equally intent that these accommodations not invalidate the particular assessment. In developing the guidance on accommodations, the Committee encourages States to work with test publishers, assessment experts, special education teachers, and other experts to maximize the opportunities for children with disabilities to participate in regular assessments. The Committee also requires the IEP Team to thoroughly review and consider which accommodations are appropriate for the individual child to ensure that the assessment is meaningful and valid for the child.

Instructional materials for blind and print-disabled students

The Committee is concerned the many blind or print-disabled students are regularly denied timely access to instructional materials. Currently, these instructional materials, in specialized formats such as Braille, synthesized speech, and digital text, often do not get to the students who need them in a timely manner, which should be the same time fellow students without print disabilities are receiving their copies of the materials. Diverse file format requirements among the States and, sometimes, even within States, make it difficult for educational agencies to obtain required textbooks from publishers in the form of electronic files suitable for use in reproducing the material in a specialized format for accessibility. The most frequently required file formats (e.g., ASCII) are ill-suited for the needs of those who actually use the publisher-provided

files (pursuant to a special exemption in the Federal Copyright Act) to reproduce and distribute copies of the required instructional materials in the needed specialized formats.

The bill adds a new provision to section 612 of the Act regarding instructional materials for blind and print disabled students. The provision is intended to provide students who are blind or have other print disabilities (as defined under current law) with more timely access to instructional materials used in elementary and secondary schools. The bill requires States to adopt the national instructional materials accessibility standard in its arrangements for getting such materials reproduced in specialized formats that are accessible to blind and print-disabled students.

The Committee recognizes the important work that the Department has already started in this area. This new provision in the bill requires States to adopt that standard in a timely manner after it is published by the Secretary in the Federal Register. Not later than two years after the date of enactment any purchase agreement for instructional materials (as defined in the bill) all State contracts with textbook publishers must include that standard. The bill provides a two-year transition period for applying the standard to meet the adaptation needs of the publishers who must provide the files, the needs of the authorized entities who actually use the files to convert the printed instructional materials into specialized formats, and the needs of States to modify and update their contracts with publishers.

Overidentification

The Committee has heard from numerous experts through testimony and other opportunities regarding the overidentification of minority students. Secretary of Education Roderick Paige testified to the Education and Workforce Committee that:

> For minority students, misclassification or inappropriate placement in special education programs can have significant adverse consequences, particularly when these students are being removed from regular education settings and denied access to the core curriculum. Of particular concern is that, often, the more separate a program is from the general education setting, the more limited the curriculum and the greater the consequences to the student, particularly in terms of access to postsecondary education and employment opportunities. The stigma of being misclassified as mentally retarded or seriously emotionally disturbed, or as having a behavioral disorder, may also have serious consequences in terms of the student's self-perception and the perception of others, including family, peers, teachers, and future employers.

The Honorable Chaka Fattah, Member of Congress (D–PA), stated in his testimony to the Education and Workforce Committee that "the misplacement of students in special education stigmatizes and denies students the opportunity of a high quality education."

Research shows that African Americans are nearly three times as likely to be identified as mentally retarded as their peers and nearly twice as likely to be labeled emotionally disturbed. Several high quality studies and scientific analyses have demonstrated that

there is no correlation between race and disability. The Committee is very concerned about the problem of overidentification and disproportionate representation of minority children in special education, and has adopted several strategies throughout the bill to address these issues. The bill requires States to have policies and procedures in place to prevent the overidentification or disproportionate representation of children as having disabilities. The Committee recognizes that the identification process requires individualized decisions that are appropriate for the individual child that may, when aggregated together, indicate a potential overidentification problem. The Committee does not intend to penalize local educational agencies for making appropriate decisions for each individual child. The Committee encourages States to develop positive and proactive methods of dealing with this problem.

Appropriate procedures include the use of rigorous methods of evaluation and classification of disability to ensure that the evaluation procedures provide consistent results rather than subjective decisions, the provision of high quality professional development to ensure that teachers and evaluators understand the identification process, and the implementation of high quality, scientifically based instruction for all children. States should not establish blanket policies that do not take into consideration the needs of the individual children within the district, but should vigorously examine any district that the State suspects has an overidentification or disproportionality problem to ensure that children are not being inappropriately identified as being disabled. The Committee further encourages local educational agencies to make effective and appropriate use of the prereferral services option discussed below to help address this problem.

Psychotropic medication

The Committee has been made aware of incidents where local educational agency officials have required parents to place children on psychotropic medication in order to attend school or receive services. The Committee feels that school officials should not presume to know what medication a child needs, or if the child even needs medication. Only medical doctors have the ability to determine if a prescription for a psychotropic drug is appropriate for a child. However, the Committee wants to stress the importance of open and effective communication between the parent and school officials (including teachers) regarding the needs of the child as a whole.

Accordingly the bill requires States, as a condition of receiving funds under the Act, to establish policies and procedures prohibiting school personnel from requiring a parent to obtain a prescription for their child for drugs listed under the Controlled Substances Act in order to attend school or receive services. The Controlled Substances Act regulates the manufacture and distribution of narcotics, stimulants, depressants, hallucinogens, anabolic steroids, and chemicals used in the illicit production of controlled substances. The Controlled Substances Act places all regulated substances into one of five schedules. This placement is based upon a substance's medicinal value, harmfulness, and potential for abuse or addiction.

Section 203. Local educational agency eligibility

Section 613. Local Educational Agency Eligibility.

The Committee is concerned that the Department has overemphasized compliance with process and focused on a reliance on gathering paperwork—a practice that States have copied when determining the eligibility of local educational agencies. The Committee agrees that local educational agencies should be able to demonstrate their intent and ability to comply with the provisions of the Act. Accordingly the bill includes language allowing local educational agencies to reasonably demonstrate to the State that they have in effect policies and procedures to ensure compliance with the Act. The Committee does not intend this to imply that the local educational agencies do not need to implement effective policies or procedures under the Act, nor is the language intended to provide a rationalization to local educational agencies for failure to effectively implement the Act. Instead, the change is intended to ensure that the State is focused on ensuring overall compliance with the Act.

Local use of funds

Within Section 613, the bill retains the authority of the local educational agency to treat as local funds the increase from one year to the next, when amounts appropriated under section 611 exceed $4.1 billion. The bill does add this provision to require the local educational agency to use those funds to provide additional funding for programs supported under the Elementary and Secondary Education Act. The Committee feels that Congress appropriated these funds to be used for educational activities and that these funds should continue to be used for educational purposes.

The bill also changes the standard that allows the State to prevent the local educational agency from exercising the authority to treat Federal funds as local funds. The Committee feels that the State should meet an exceptionally high standard to prevent local educational agencies from exercising local control over these funds. The bill requires the State to determine that the local educational agency is unable to establish and maintain programs of free appropriate public education in order for the State to prevent the local educational agency from exercising this authority. The Committee reminds States that if such a determination is made, then the State has an affirmative obligation under other sections of the Act to take control of the local educational agency's special education program.

New provisions in section 613 give local educational agencies greater flexibility in the use of part B funds to meet the needs of prereferral services, high cost special education services, case management and administration, supplemental educational services for children with disabilities, and providing services to charter schools.

High cost special education and related services

The Committee has been made increasingly aware of the needs of local educational agencies to provide services to children with very expensive special needs. Local educational agencies are often overwhelmed by the costs associated with a child with expensive needs, but are committed to providing such children an appropriate education. The Committee recognizes and applauds the efforts of

several States to address this problem and has provided flexibility to States to address this issue with State funds elsewhere in the Act.

However, as another tool to help meet this need, the bill includes as an allowable use of local educational agency funds the ability of local educational agencies on their own or working in consortium with other local educational agencies to reserve funds to establish and implement any of a variety of funding mechanisms, consistent with State law, to provide services to a child with high cost needs. The bill does not establish a set model or specific program that local educational agencies must create or implement. Instead the Committee feels it is best to rely on the creativity of the States and local educational agencies to determine the best methods of meeting these needs.

Technology in the IEP

The Committee has heard from hundreds of teachers, principals, and parents who have concerns that local educational agencies do not have the ability to use modern technology for record keeping, data collection, and developing IEPs. Mr. Gregory J. Lock, principal of Oak View Elementary School in Fairfax, Virginia, testified to the Subcommittee on Education Reform that the Act should "provide for the use of technology to automate the written components of the IEP process in order to reduce the time spent on the preparation of the IEP."

The Committee has even heard from teachers who have been required to hand write all of their IEPs, and rewrite IEPs from the beginning whenever any changes are made to the IEP. The Act does not contain any such requirements or prohibit the appropriate use of technology. The Committee encourages local educational agencies to use technology appropriately in implementing this Act. To further this goal, the bill allows local educational agencies to use funds under the Act to purchase appropriate technology to improve the administration of the Act and to reduce the paperwork burden on teachers.

Supplemental educational services

The bill also allows local educational agencies to use their Part B funds to support supplemental educational services for children with disabilities in Title I schools in need of improvement. The bill supports access for children with disabilities to supplemental educational services and their parent's ability to pick the best provider. All children in schools which fail to make adequate yearly progress under the Elementary and Secondary Education act for three consecutive years, especially children with disabilities, should be given an opportunity for supplemental educational services. Expanding access to more eligible supplemental educational services providers will help improve results for their children with disabilities.

Currently under the No Child Left Behind Act, local educational agencies are limited in the amount of funds that can follow a child to his or her chosen supplemental educational services provider. However, the Committee is aware that there may be extra costs associated with providing necessary accommodations to serve children with disabilities. This provision allows local educational agencies to decide whether to use funds under this Act to meet those

extra costs and ensure that these children have access to the same supplemental educational services providers as other children in the school. This change is a logical extension of the No Child Left Behind Act to ensure that children with disabilities have access to the full measure of options for supplemental educational services.

It should be made absolutely clear that this provision only allows local educational agencies to supplement the current level of funding available to these children under the No Child Left Behind Act with funds under this Act, and in no way is intended to allow the supplantation of the required funding under the No Child Left Behind Act. Allowing local educational agencies to choose to use these funds to supplement its other efforts ensures that students with disabilities in schools in need of improvement are not limited to only the district or State provider of supplemental educational services.

Charter schools

The bill also amends two provisions concerning how charter schools that serve children with disabilities are treated when they are part of local educational agency. The current Act includes provisions to ensure that charter schools are treated equitably both in the distribution of funds and the provision of services. In situations where charter schools are within a local educational agency, the bill modifies current law because it has been interpreted by the Department as preventing a local educational agency from providing funds to charter schools on a proportional basis unless the local educational agency provided funds directly to its other schools. Such a determination fails to account for the fundamental difference in a school that operates independently and adheres to a charter or performance contract. The Committee intends that charter schools be able to provide services to children with disabilities under the Act. To remedy this problem, the bill continues to require local educational agencies to serve children with disabilities in its charter schools in the same manner it serves its other public school students. It further clarifies that this requirement includes providing supplemental and related services on site at the charter school where the local educational agency has a policy or practice of providing these services on site at its other public schools.

The bill also modifies the requirement for how local educational agencies provide funds to its charter schools. This provision clarifies that the local education agency must provide funds for charter schools serving children with disabilities on the same basis and at the same time as it serves children with disabilities in its other schools. The bill directs local educational agencies to provide charter schools with funds under section 611 determined by their direct proportional distribution based on relative enrollment and at the same time that it provides other Federal funds. The Committee intends that local educational agencies should not withhold services or funds from charter schools as such actions serve only to deprive children with disabilities of their right to a free appropriate education and only further polarize the charter school and the local educational agency from working together.

Prereferral services

The Committee heard from numerous individuals who have called for providing assistance to students on the verge of being identified in need of special education services. Dianne Talarico, Superintendent of the Canton City School District in Canton, Ohio, testified to the Subcommittee on Education Reform that:

> Too often students are referred to special education because they are not succeeding in the general education setting and they need extra support or intensified instruction. While they do not need special education, they are referred there anyway. Frankly, too many general educators are not skilled in meeting a diverse range of student learning needs, so they are eager to "dump" students out of their classes and off of their rosters so they are not responsible for them.

The bill includes a significant new provision regarding support for prereferral services to benefit children before they are referred to special education. The bill allows local educational agencies to use up to fifteen percent of their allocation under section 611 to develop and implement comprehensive coordinated prereferral educational support services for students not yet identified as having a disability. These funds should be used in coordination with other education funds and programs to provide high quality, intensive services to students that need additional academic and behavioral support in a general education environment.

The Committee understands that this is an important new concept to the Act that will have a beneficial impact on the lives of children. The Committee's intent with this new provision is to provide flexibility to local educational agencies to establish a comprehensive coordinated system of services to children that may be on the verge of manifesting a disability or are at risk of being inappropriately identified as having a disability.

The Committee has heard testimony and received a significant level of requests from teachers and school district officials for the ability to provide intensive services to students that might otherwise be referred to special education, even if the student does not have an identifiable disability. The Committee feels that a substantial number of children, particularly minority children, are being inappropriately referred to special education primarily because of reading difficulties or behavior problems. While such a referral may provide an immediate or short-term solution to the problem, such actions are not in the long-term interest of the child and are antithetical to the intent and purpose of the Act.

The Committee encourages local educational agencies to use this flexibility to provide regular education and special education teachers high quality professional development programs to ensure that all teachers are able to use scientifically based academic instruction methods, particularly methods in literacy and reading instruction. The Committee feels that providing such high quality professional development will benefit the children served under this section as well as all other children served under the Act by improving the skills of teachers.

The Committee encourages local educational agencies to provide direct services, especially scientifically based literacy instruction,

and speech therapy services where appropriate, to students served under this section to remedy any reading deficiencies that the students may have and to adequately assess and evaluate the skills of these students. The Committee believes that the provision of these services and the use of the variety of evaluation and assessment methods that accompany the provision of scientifically based literacy instruction will help differentiate between students who have different learning styles and students that have disabilities, especially learning disabilities. The Committee has heard experts discuss the difference between a reading difficulty and a reading-based learning disability, and encourages local educational agencies to take careful steps to make these determinations with their students. The Committee reminds local educational agencies that a child with a reading difficulty cannot be identified as a child with a disability if the determinant factor is their reading difficulty. However, children with reading-based learning disabilities can, and should, be appropriately identified as disabled.

The Committee also encourages local educational agencies to provide positive behavior interventions and supports to children that have demonstrated behavior problems within school. The Committee understands that a significant number of students, particularly African American males, are inappropriately referred to special education and identified as having an emotional disturbance. The Committee has heard testimony from experts regarding the appropriate use of positive behavior interventions and supports, and encourages local educational agencies to implement these constructive strategies to reduce the level of inappropriate behavior by individuals and to improve the overall educational environment within the school building.

In creating the opportunity for local educational agencies to develop and implement these prereferral services, the Committee is also aware of the potential for confusion regarding the appropriate use of these services. The Committee does not intend for these services to be operated in settings that create the potential for a separate system for the students served under this section. While it may be appropriate to provide some intensive services in a separate setting, the substantial majority of these services should be provided in the regular education setting to students with their disabled and non-disabled peers.

The bill is also explicitly clear that children served under this section do not have the same rights and protections as students that are identified as eligible for services under the Act in sections 614 and 615. Children served under this section do not have a right to a free appropriate public education in the least restrictive environment, and being served under this section does not trigger the local educational agency's responsibility to have known the child had a disability under section 615(j). However, the Committee does not intend for the provision of these services to delay or deny, in any way, the appropriate referral and evaluation of a child to determine whether the child has a disability. Local educational agencies are not authorized to delay the implementation of a requested evaluation by providing services under this section. The Committee also reminds local educational agencies that other obligations exist regarding parental consent for the provision of educational services.

The Committee is also very interested in rigorous data collection efforts under this section to ensure that the services provided under this section are effectively implemented. The Committee encourages States and the Department to establish a vigorous reporting system for local educational agencies that decide to use this flexibility in order to evaluate the effectiveness of this program and to determine the breadth and depth of the impact of these services.

Section 204. Evaluations, eligibility determinations, individualized education programs, and educational placements

Section 614. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.

Empowering parents to be more involved in the decisions about the education of their child is the focus of many changes in section 614. The Committee feels that parents should be integral partners in the development of their child's IEP and has made several changes to the development process of the IEP to empower parents to establish effective working relationships with their child's school to develop effective IEPs. The Committee also had the goal of reducing the paperwork burden that is often associated with the IEP. The bill will help reduce the paperwork burden on teachers so that they are able to spend more time working with students. The excessive amount of paperwork currently inherent in the process overwhelms and burdens teachers, robbing them of time to educate their students. It also makes it more difficult for school districts to retain and recruit highly qualified special education teachers. Teachers must have the ability to spend more time with their students in the classroom, rather than spending endless hours filling out forms that do not lead to a better education for students.

Parental consent

The bill clarifies the rights of parents with regard to initial evaluation and services for their child. Parents have the right to refuse both the initial evaluation of their child as well as the provision of services to their child under the Act. However because of the obligation to conduct child find, the law permits, but does not require, the local educational agency to override parental consent for the limited purpose of the initial evaluation. Next, the bill strengthens parental consent provisions to ensure that parental consent is required, and cannot be overridden, when it comes to the provision of services. This provision clarifies the distinction between the initial evaluation and the provision of services. This bill further clarifies that local educational agencies are not required to draft an IEP for a child if the parent has refused their consent for services. The Committee does not expect local educational agencies, as part of the required child find process, to feel compelled to override the refusal of a parent to consent to an evaluation if the parent has clearly indicated their refusal to consent to an initial evaluation and their intention to refuse the offer of special education and related services for their child.

Evaluations

The bill clarifies that diagnostic testing and screening by teachers to determine the appropriate curricular placement and inter-

ventions is not to be considered an evaluation for the purposes of determining eligibility for services under the Act.

Reevaluations

The bill makes changes to the reevaluation process to enable the local educational agency to reevaluate the child if his or her educational needs, including improved academic achievement, make such a reevaluation necessary. The bill maintains the ability of the parent or the teacher to request a reevaluation and retains the requirement that reevaluations occur at least once every three years. The bill makes one important change to the triennial evaluation by allowing the parent and the local educational agency to agree that it is not necessary to reevaluate the child. Many parents and school district officials have suggested to the Committee that it is not necessary to reevaluate every child, and this change allows the parent to make that determination. The bill also makes clear that local educational agencies are only required to provide one reevaluation a year, unless the local educational agency chooses to conduct an additional reevaluation if the child's educational needs suggest to the local educational agency that such a reevaluation is necessary.

The Committee is concerned that the evaluation procedures, assessments, and diagnostic tools have become moribund and resistant to change as better evaluation procedures have become available. The Committee strongly believes that local educational agencies should use the most up-to-date measures, assessments, and evaluation practices that have been independently verified to be valid and reliable for the purpose that the measures are designed to evaluate. To that end, the bill updates the description and the requirements regarding the measures used for evaluations and encourages the Department to work with the States and local educational agencies to determine which measures are most appropriate for evaluating whether a child has a disability.

Overidentification of students

The Committee is discouraged by the practice of overidentifying children as having disabilities, especially minority students, largely because the children do not have appropriate reading skills. Special education is not intended to serve as an alternative place to serve children if the local educational agency has failed to teach these children how to read. The bill updates language within the Act to contain a specific requirement that a child cannot be determined to be a child with a disability solely because the child did not receive scientifically based instruction in reading. With the combination of programs authorized under the Elementary and Secondary Education Act, particularly Reading First and Early Reading First, and the prereferral services concept under section 613, the Committee hopes that local educational agencies will improve their reading and literacy instruction to enable all children to read at grade level by the third grade. The Committee believes that these changes will help reduce the number of children being inappropriately referred to, and identified under, special education and should encourage schools to improve their programs on these subjects in early grades.

Specific learning disabilities

Dr. Robert Pasternack, Assistant Secretary for Special Education and Rehabilitative Services at the U.S. Department of Education, testified before the Subcommittee on Education Reform regarding specific learning disabilities and appropriate methods of identification of that disability. He testified that:

> The convergence of scientific research about LD ["Learning Disabled"], especially reading difficulties associated with LD, has placed us on the edge of new knowledge that we did not have even a few short years ago. We now know, for example, that the way we have traditionally looked at assessment of learning disabilities needs to be re-thought based on recent research in the use and role of IQ tests in assessments for eligibility. We know that using IQ discrepancy between the test and performance is not always an indicator of a learning disability. Indeed, some research indicates that if a child who reads slowly has IQ scores that are above average, that child might receive services under the IDEA based on the discrepancy between the IQ scores and the reading ability. On the other hand, another child who also reads slowly but has IQ scores that are average may not receive any services because of the lack of a significant discrepancy. Such approaches to assessment may clearly result in some children who need services not getting them while others who do not need them will receive them.

The bill includes very clear language regarding the determination of eligibility for students as having a specific learning disability. The Committee is discouraged by the widespread reliance on the IQ-achievement discrepancy model that serves as the determining factor of whether a child has a specific learning disability. The Committee does not disregard the research base that supports the appropriate use of IQ tests, but the Committee acknowledges the widespread misuse of those measures. The bill specifically allows local educational agencies to continue to use the discrepancy model. However, the Committee hopes that local educational agencies that continue to use the discrepancy model will take great efforts to ensure that the application of the discrepancy model falls within the appropriate guidelines of the IQ assessment, and that evaluators do not rely solely on a simple test score, but place that result within the larger context of the child's individual abilities.

The Committee is greatly encouraged by the growing use of alternative measures that are being used in place of the IQ-achievement discrepancy model. Dr. Douglas Carnine, director of the National Center to Improve the Tools of Educators at the University of Oregon, testified to the Subcommittee on Education Reform that:

> Given the converging evidence and agreement in the field that we must do something better for our children, the following model is recommended as the basis to improve how we provide early intervention and identification: Response to Intervention Model (RTI). A RTI model would be designed to ensure that children who are indicating a

> likelihood of failing in the early grades receive scientifically based instruction as soon as possible.
>
> The eligibility for special education services would focus on the children who, even with these services, are not able to be successful. The focus of RTI is on responding to the instructional challenges caused by the disability, not on giving tests to document the failure of the student.

The Committee encourages local educational agencies to take advantage of the prereferral services in section 613 to provide early intervention services to students and accompany those services with rigorous evaluation methods and curriculum-based assessments to measure the progress of the child. Through the application of high quality instruction, delivered by well-trained individuals, local educational agencies will be able to differentiate between children that have different learning styles and children that have disabilities. The experience of some local educational agencies and States that have adopted other methods, such as "Neverstreaming" or "response-to-intervention" have demonstrated that scientifically based, rigorous assessment methods exist and should serve as models for other local educational agencies and States to follow.

David W. Gordon, Superintendent of the Elk Grove Unified School District in Elk Grove, California testified to the Subcommittee on Education Reform that:

> Neverstreaming changes the paradigm from failing first to preventing failure in the first place. By changing that paradigm through constant vigilance, we actually promote prevention over reactive models. Prevention means that you prevent the child from backsliding educationally to the point where support is only available through separate program models that require long-term remediation with very little chance of catching up to the grade level group.

The Committee encourages the Department to establish effective technical assistance, training, model development, dissemination centers, and professional development activities to support these alternative models. The Department should also conduct high quality research to evaluate the effectiveness of these models, and provide more information regarding these alternatives.

Exit evaluation

The bill revises the commonly-termed "exit evaluation" to allow the IEP Team to determine that a child may leave special education and return to the regular education program or graduate from high school without a costly and unnecessary evaluation. However, if the IEP Team is not in agreement on this change in eligibility status, a full exit evaluation is still required.

Accountability

Within section 614(d) the bill makes several important changes to improve the focus of the IEP on the educational program and the academic achievement of children with disabilities. The Committee recognizes the importance of assessing progress for all children, particularly children with disabilities, and increases the focus of the IEP in measuring the academic achievement of children with

disabilities. The Committee believes that the reporting requirements included in the No Child Left Behind Act are a very important development in measuring progress for all children, particularly children with disabilities, and is placing significant new accountability requirements on schools, local educational agencies, and States.

Harriet P. Brown, Director of ESE Policy and Procedures in the Orlando School District in Orlando, Florida, testified to the Subcommittee on Education Reform that the Act should not include short-term objectives due to the requirements of the No Child Left Behind Act.

> With the new mandates of the No Child Left Behind Act, there is a heightened awareness of standards for all students. Coupling that with the IDEA's existing mandate for participation in the general curriculum for students with disabilities, annual goals based on the state's standards for achievement will offer a clear correlation for instruction and transition beyond the school years. The current requirement for short-term objectives dictates the length of the IEP. Parents appear more comfortable with short-term objectives because they are easy to understand. Annual goals can serve the same purpose and provide more flexibility for learning.

The Committee agrees with this sentiment and as the reporting requirements from the No Child Left Behind Act come in to effect, the Committee feels that other reporting requirements should be replaced. The bill eliminates the requirements for benchmarks or short-term objectives for most students with disabilities after the 2005–2006 school year, which is when the full breadth of requirements under the No Child Left Behind Act are implemented.

However, the Committee is aware that these reporting requirements may not be entirely sufficient for a small group of children with disabilities, those with significant cognitive disabilities that will be unable to effectively participate in regular assessments with appropriate accommodations or even alternative assessments aligned to grade level standards. For a small proportion of the population of children with disabilities, some children will take alternate assessments aligned to alternate standards. For these children, the Committee feels that benchmarks or short-term objectives may still be appropriate, and the bill requires these elements to be included in IEPs for these children even after the 2005–2006 school year.

Related services

The Committee is very concerned about the appropriateness of some of the activities that local educational agencies have been required to provide through the provision of related services. The Committee reminds local educational agencies that related services are required to assist a child with a disability to benefit from special education. Related services face the same requirements as do special educational services and local educational agencies are reminded that there is not a requirement to provide every possible related service, but they must provide those services that are appropriate. Local educational agencies are able to use their discre-

tion to determine whether a requested service will actually enable the child to benefit from special education. To help local educational agencies determine what related services are appropriate to be provided at public expense, the bill encourages the IEP Team to include related services that have been peer-reviewed, to the extent practicable, to determine whether the service is beneficial and related to the special education services. The Committee also encourages the Department to focus its research efforts to help expand the level of research on related services to ensure that all appropriate related services have a solid foundation of research and peer-review.

Required elements of the IEP

The bill also establishes a rule of construction stating that nothing beyond what is explicitly included in section 614 is required in a child's IEP. This provision is intended to indicate to States and local educational agencies that these requirements are all that is required for an IEP to comply with this Act. While States and local educational agencies may add their own additional requirements, such requirements should be identified as State- or locally-mandated.

Transition from Part C to section 619

The Committee is concerned about the transition of some children from the Part C program for infants and toddlers with disabilities to the section 619 program for children aged three through five. The Part C program requires that an Individualized Family Service Program (IFSP) be developed to lay out the plan of services and supports for the child and their family under that program. When a child turns three years old, he or she is eligible to be served under the Part B, section 619 preschool program and the local educational agency is required to develop an IEP for the child. The bill encourages the local educational agency to consider the elements of the IFSP that continue to be relevant for the child, and are appropriate to be included in the IEP for the child. This change is not intended to obligate local educational agencies to provide services that are not required under Part B of the Act, but it does encourage the local educational agency to continue relevant services in a manner that will help ease the transition for the child from one program to another.

Flexibility for parents in the IEP

One of the top goals for the Committee is to reduce the unnecessary complications and processes involved in the IEP in order to give parents greater control over the IEP and to make the process more efficient and more effective for children, their parents, and teachers. A key change in the bill is to allow parents, along with the local educational agency, to excuse the attendance of any IEP Team member. Allowing the parent and the local educational agency to determine which members of the IEP Team are needed for any given IEP Team meeting empowers parents to make important decisions about their child's education, and allows local educational agencies to better utilize their personnel who are not needed for a particular meeting. If the parent and the local educational agency agree to this action, then the individual that has been excused is

required to submit their comments prior to the IEP Team meeting in order for their input to be considered during that meeting.

Another significant change in the bill is to give greater flexibility to parents to allow the parent and the local educational agency to make changes or amendments to an IEP without reconvening the entire IEP Team. The IEP is a management tool for the parent to ensure that the child is receiving needed special education and related services. If the parent and the local educational agency mutually agree to amend the IEP without reconvening the entire IEP Team, they should be allowed to do so. The Committee understands that it is often difficult to convene the entire IEP Team, and that in some circumstances the IEP may need a simple change to benefit the child. Currently local educational agencies feel constrained from making these simple changes because they are concerned that if they do not follow the clear process for amending the IEP, including reconvening the IEP Team, then some parents could later complain that the rights of their child had been violated. The bill gives this flexibility to parents to request amendments to the IEP and the authority to the local educational agency to accept amendments without fear of future litigation. However, if the parent and the local educational agency choose to reconvene the entire team they continue to have the right to do so.

In addition, the Committee believes the IEP Team should consider including a bilingual or English as a second language teacher in IEP Team meetings as appropriate, based on the individual child's needs to address the special language development needs of a limited English proficient child with disabilities.

Multi-year IEP

Many parents, teachers, and school district officials have asked for greater flexibility in dealing with the paperwork associated with the Act. Mr. Gregory J. Lock, principal of the Oak View Elementary School in Fairfax, VA, testified to the Subcommittee on Education Reform that the Act should lengthen "the timeframe of the IEP from the current requirement for an annual formal rewrite. The formal process would be retained for a child's major transition points, but the new approach would allow for a more collaborative process for ongoing review of the student's progress."

The Committee is very interested in reducing the paperwork burden on parents and teachers. While the Committee strongly supports the annual IEP and remains committed to the fact that all children have the right to an annual IEP, the Committee has heard from parents and teachers that would like to have the opportunity to voluntarily choose to develop a multi-year IEP for their child (to a maximum of 3 years). The Committee notes that all of the requirements for the development of the annual IEP apply to the multi-year IEP. The multi-year IEP will continue to have an annual review process, where the entire IEP Team sits down to discuss the IEP and the child's progress. The parent can drop out of the multi-year IEP at any time and return to an annual IEP.

The multi-year IEP is an entirely voluntary program. The local educational agency has the option to offer the multi-year IEP to a parent. The parent then has the option to choose to develop a multi-year IEP for the child. It is clearly the intent of the Committee that the parent must voluntarily choose to enter into a

multi-year IEP. The Committee has heard from many parents who would like to have this ability to engage the school district in long term planning for their child. The multi-year IEP allows parents to look ahead, to make sure that the proper foundation is being laid for their child's education, instead of focusing on where their child will be at the end of just one year. This option serves as a mechanism to shift the focus from the short-term process to the long-term achievement of the child with a disability.

Use of technology

The bill also makes clear that parents and school districts may use modern technology such as computer programs, teleconferencing, and video conferencing when creating an IEP. Often parents or other IEP Team members cannot attend in person the entire IEP Team meeting. This option will allow all members to participate in the meeting in a way that is constructive. The Committee also hopes that this will enable greater participation of other agencies that have a role in the development of the IEP, particularly agencies involved in transition planning for children about to graduate or age out of the school system. The Committee recognizes the significance of a good transition plan for children, and hopes that this change will allow agencies to work effectively together to maximize their participation in the development of the IEP.

Children with degenerative diseases

The Committee has heard from many parents and teachers regarding the special situations of children with a medical condition that is degenerative (i.e., a disease that results in negative progression and cannot be corrected or fully stabilized). For these children, services under the IEP can be provided to help maintain the child's present level of functioning for as long as possible in order for the child to fully benefit from special education services. In developing an IEP for these children, the IEP Team may consider recommendations from professional consultants familiar with the child and the medical condition in the development of the IEP. The IEP Team can include related services designed to provide therapeutic services prior to loss of original abilities to extend current skills and throughout the child's enrollment in school. These services may include occupational and physical therapy, self-help, mobility and communication, as appropriate.

Section 205. Procedural safeguards

Section 615. Procedural Safeguards.

The procedural safeguards in the Act have historically provided the foundation for ensuring access to a free appropriate public education for children with disabilities. The Committee has added clarifications to the procedural safeguard provisions to facilitate conflict resolution, describe how schools may discipline children with disabilities, and ensure that due process is useful for all parents and schools. The reauthorization will allow for more productive and less hostile relations between parents and schools to ensure that the focus of the Act remains on educating children with disabilities.

The bill retains the provisions concerning the opportunity to use, and the administrative procedures associated with, an impartial due process hearing. The bill simplifies the process of delivering, and the content of, notices to parents about their child's rights. The Committee hopes that these provisions will provide parents more user-friendly information that they can understand without burdening them or the local educational agency with repetitive and unnecessary distribution of these notices.

Homeless children with disabilities

The bill clarifies that when a complaint requires the address of the residence of the child, in the case of a homeless child or youth, the complaint may list available contact information of the child. This change is intended to ensure that homeless children are not disenfranchised from the due process proceedings.

Mediation and voluntary binding arbitration

In the 1997 reauthorization of this Act, the Congress added the opportunity for parents and local educational agencies to mediate their disagreements. The opportunity for mediation was intended to encourage early resolution of problems whenever possible. However, the bill required that a State's mediation system not be used to delay or deny a parent's right to due process. At that time, States that offered mediation reduced litigation and parents and schools resolved their differences amicably, making decisions with the child's best interest in mind. Since 1997, mediation under the Act has resulted in a significant reduction in litigation and helped in restoring the trust between parents and school personnel. Although hearing requests increased from about 9,200 in 1997 to over 11,000 in 2000, the number of requests actually going to hearings fell from about 3,400 in 1997 to just over 3,000 in 2000.

This bill builds upon the 1997 improvements by requiring States to establish and maintain a voluntary binding arbitration system. First, H.R. 1350 encourages the use of mediation as early as possible. Current law only allows the mediation of disputes once a formal complaint has been filed. This bill allows parents and local educational agencies to choose to mediate disputes at any time. For example, if the parent and the local educational agency are having difficulty in agreeing on the number of hours of physical therapy or the least restrictive placement for the child, they could agree to mediate their differences. Such a choice to mediate does not foreclose any procedural avenues; however it does speed the process to a resolution so that the child will be provided the appropriate services in the most timely manner.

Given the interest in resolving disputes through non-litigation means, it is expected that this will also assist in reducing the litigation burden and continue to restore the focus on educating children with disabilities. The willingness of parents to enter the mediation system indicates that some parents are hungry for ways to resolve disputes so that their child gets the necessary services in a more timely manner than can be achieved through traditional litigation. Therefore, the second change is the addition of voluntary binding arbitration that allows those parents, along with the local educational agency, to come to a final resolution without a due process hearing.

A voluntary binding arbitration system already operates in most States for numerous other claims ranging from personal disputes to business disputes to class action litigation. These systems allow the expeditious and final resolution of claims in many areas and should be allowed to include claims under the IDEA. With such an available option, local educational agencies and parents can mutually agree to avoid the lengthy and expensive litigation inherent to the Act. This alternative dispute resolution option can serve to restore the trust between the school personnel and the parent, allowing them to work cooperatively to find the best education placement and services for the child.

Importantly, this system is truly voluntary for both the parent and the local educational agency to choose. If both parties do not choose voluntary binding arbitration, then the complaint goes through the regular due process procedure. Finally, all arbitrations must be conducted by qualified and impartial arbitrators, ensuring that all parties have a fair and unbiased consideration of each situation. It is the Committee's strong preference that the resolution session, mediation and voluntary binding arbitration become the typical methods for resolving disputes under the Act.

Resolution session

The Committee is clearly concerned about the level of communication that occurs between a parent and the local educational agency when there is a dispute about the services the child is receiving. The Committee feels that parents and local educational agency officials, in most cases, should be able to easily resolve issues when they are brought to the attention of appropriate individuals within the school system. The bill creates a new concept of the resolution session that is intended to improve the communication between parents and school officials, and to help foster greater efforts to resolve disputes in a timely manner so that the child's interests are best served.

Once a parent has filed a clear and specific complaint, the school district has 15 days from the receipt of such complaint to convene a meeting with the parent. At that meeting the parent and the school officials should work together to determine the nature of the complaint and to work collaboratively to attempt to resolve the complaint. The local educational agency then has up until the 30th day from the receipt of the complaint to address the parent's complaint. If the local educational agency has not resolved the complaint, then the due process hearing can occur.

The Committee feels that it is important to clarify that the resolution session procedure does not, in any way, infringe on other timelines regarding the due process hearing and that those timelines would run concurrently with the timeline outlined for the resolution session. The resolution session is not intended to delay the ability of a parent to access a due process hearing.

The bill is also clear that if the parent and the local educational agency mutually agree that the meeting does not need to occur, the resolution session meeting does not need to take place. However, unless such an agreement is reached, the failure of the party bringing the complaint to participate in the meeting will delay the timeline for convening a due process hearing until the meeting is held.

Clear and specific notice of complaint

In 1997, the reauthorization included changes designed to ensure that parents accurately notified the local educational agency of the issues they were raising in their complaint. Unfortunately, regulations issued in 1999 by the Department directly contradicted this requirement by stating that failure to comply with the notice requirement under this Act could not delay or deny the parent the right to a due process hearing. The language requiring a parent to provide a clear and specific complaint to the local educational agency is essential to making the complaint process work in a fair and equitable manner. Local educational agency officials need to know, with clarity and specificity, what the problem is that concerns the parent so they can try to remedy the problem.

Often, local educational agency officials may be unaware that there is a problem until a parent has filed a complaint. Currently, a complaint may be vague and unclear. If the local educational agency officials do not know specifically what the issue is, they cannot remedy the problem. If the local educational agency receives a clear and specific complaint, school personnel with decision-making ability may be able to remedy the problem with greater speed than school level officials. This may also reduce some of the unnecessary litigation, since a parent will have to actually identify a clear and specific problem before they can file a complaint. If a parent cannot identify a specific problem, then the parent should ask to reconvene the IEP Team and discuss what their concerns are rather than filing a complaint to see if a hearing officer can determine the problem.

Through this bill, the Committee reiterates in clear terms that a due process hearing cannot occur until the parent has disclosed all of the issues that are the basis of their complaint with specificity. Further, this bill requires the hearing officer to bar the introduction of new issues by a parent that have not been disclosed to the local educational agency in the complaint or at the meeting during the resolution session. If a parent has new issues they need to disclose past the current five-day time limit prior to a hearing, the parent must amend the complaint, get the consent of the local educational agency to introduce new issues without prior notice, or seek a continuance of the hearing until such time as all issues have been disclosed.

Statue of limitations

The Act currently has no statute of limitations and leaves local educational agencies open to litigation for the entire length of time a child is in school, whether or not the child has been identified as a child with a disability. Local educational agencies are often surprised by claims from parents involving issues that occurred in an elementary school program when the child may currently be a high school student. Such an unreasonably long threat of litigation hanging over a local educational agency forces them to document every step they take with every child, even if the parents agree with the action, because they could later change their mind and sue. The fear of far-removed litigation raises the tension level between the school and the parent. Prolonged litigation breeds an attitude of distrust between the parents and school personnel and has the effect of requiring school personnel to document conversa-

tions, rather than working cooperatively to find the best education placement and services for the child.

The bill includes a statute of limitations of one year from the date of the violation. This change will align the Act with other Federal statutes that have explicit statutes of limitations (e.g., civil rights claims, Federal tort claims, Social Security) and allow for timely resolution of issues. Parents, or their advocates, often wait to bring actions until many years after discovering a concern. The child's education is usually jeopardized by this strategy. A statue of limitations alleviates unnecessary claims for compensatory education and allows local educational agencies to limit unnecessary paperwork designed to protect them from protracted, long-term litigation.

Attorney's fees

The Committee remains concerned about excessive litigation under the Act and the burden that local educational agencies face in paying fees to attorneys. The bill includes language that requires each Governor (or their designee) to set the rate of attorney's fees that may be awarded for actions under this Act that arise in their State. The fees set by a Governor may take into account the geographic differences of a state, such as rural versus urban areas, and may be a range of fees that take those geographic differences into account. The determined rates must be made available to the public each year. The Committee encourages the States to make the established rates public prior to the beginning of the school year. The Committee believes that the addition of this provision will help restore balance to the proceedings under this Act and continue to provide early opportunities for schools and parents to foster more cooperative partnerships and resolve problems.

Discipline

The Committee notes that there is a heightened awareness for the need to ensure that all students are safe when they are at school. In the bill, the discipline provisions are modified to ensure that every student can learn in a safe school that supports an appropriate educational environment. These changes give school personnel the necessary authority to protect the safety and well-being of all students in the school. These improved student discipline provisions clarify what is expected of all students, including children with disabilities, and the consequences of not meeting those expectations.

Over the past few years, the Committee has attempted several times to improve upon the Act's discipline system. In the 106th Congress, the Committee passed amendments to the Act's discipline provisions in H.R. 4141, the Education OPTIONS Act, and the House passed amendments to the Act's discipline provisions in H.R. 1501, the juvenile justice reauthorization bill. More recently, in H.R. 1 of the 107th Congress, the No Child Left Behind Act, the House passed discipline reforms similar to those of the 106th Congress.

The bill continues this strong commitment to reforming the discipline provisions of the Act. The bill includes very worthwhile and positive improvements. The reform of the duplicative discipline system under the Act provides for a uniform and fair way of dis-

ciplining children with disabilities in line with discipline procedures for children without disabilities. It also ensures that children with disabilities continue to receive educational services if they are disciplined beyond the 10 days allowed under current law.

The Committee has heard from teachers and school administrators that the duel discipline system of current law results in an inability to discipline students appropriately given the child's misbehavior. Members also hear that current law ties the hands of school personnel in responding quickly and effectively to very serious student behavior problems.

Dr. Sally Arthur, Director of Educational Support Services in the Humble Independent School District in Humble, Texas, testified to the Subcommittee on Education Reform that:

> IDEA 1997 and the resulting federal regulations created a logistical problem in relation to school discipline. The current regulations diminish the capacity to follow the principles of PBIS [positive behavior interventions and supports] by establishing variable rather than clear guidelines of behavioral expectations to students and parents. Loopholes are available and students can learn to misbehave from the lack of consistency. Further, the possibility of human error is monumental, reducing the ability of campus administrators to ensure compliance to the regulations. Campus administrators are expected to follow a maze of regulations and make decisions in relation to their ability to consequent a student's inappropriate behaviors. This maze of regulations has numerous decision points, all potential vehicles for litigation. This inequitable system creates opportunities for exploitation of the system. Further, it assumes that all individuals are capable of understanding and applying these legal complexities. After five years of studying it, I am not certain I could make the correct decision with limited time to reflect.

An examination of current law illustrates these problems. The dual system created by current law becomes apparent when the behavior of a child with a disability would result in an extended punishment or when the current ten-day flexibility has been exhausted. While a serious fighting incident could result in a suspension beyond ten days for a non-disabled child, the child with a disability does not face the same consequences. Under current law, school personnel have discretion to remove a child with a disability from the child's current placement to an interim alternative placement only for situations involving weapons and drugs. School personnel must undertake the confusing manifestation determination process in order to attempt to apply the same consequences for misbehavior as would be applied to a non-disabled child in discipline situations beyond weapons and drugs. Educators consistently comment that the manifestation determination typically results in a finding that the behavior is somehow remotely related to the child's disability, which is not surprising considering the statute is written to presume that the behavior is related to the disability. The reality has become an inherently subjective process that is purposefully used to avoid discipline for a child with a disability.

The discipline improvements in the bill provide for a uniform school discipline code and substantially reduce the confusion and complexity of the current system. Specifically, the bill maintains the current law provision allowing school personnel to suspend a child with a disability for up to 10 days with no educational services provided; maintains the current law requirement that when a child is disciplined beyond the above 10 days, schools are required to provide educational services to students with disabilities; provides for a uniform system of discipline in schools by allowing school personnel discretion over all behaviors (not limited to weapons and drugs as in current law), while allowing school personnel to make case-by-case disciplinary decisions; and allows school personnel to place a child with a disability that violates the school code of conduct policy in an alternative educational setting for up to 45 school days, unless State law provides for a longer term.

Under the bill, where State law has longer consequences (i.e., longer than 45 days) for specific incidents (typically incidents involving weapons, drugs, aggravated assault, or pulling a fire alarm), State law would be followed, though for children with disabilities educational services would continue.

Most importantly, the bill requires school personnel to treat all children in the same manner. If a violation results in a 3 day punishment for a child without a disability, the school could discipline the child with a disability for up to 3 days, while continuing to provide educational services. The alternate setting does not have to be outside the school setting—in-school suspensions are common for non-disabled children. Additionally, school personnel may consider the circumstances of the situation when making discipline decisions.

The bill also removes the cumbersome manifestation determination provisions since local educational agencies are required to continue to provide educational services to enable the child to continue to make progress toward the goals in the IEP. However, the bill also retains the right of parents to appeal discipline related decisions, through the IEP Team as well as through due process provisions.

These improvements are geared toward finding a balance among several competing goals. This balance recognizes the need of all students in the school to receive a quality education in a safe environment. It allows educators to maintain an environment in the classroom that supports all students' ability to learn.

Secondly, it balances the need to set clear expectations of students, while allowing for consideration of individual circumstances and for the continuation of educational services. It provides for a uniform and fair way of disciplining children with disabilities in line with discipline expectations for children without disabilities. The language states that school personnel may order a change in placement for a child with a disability who violates the student code of conduct policy to the same extent as would be applied to children without disabilities. The Committee feels that it is important to clarify that the bill does not require or allow an automatic 45–day suspension for any infraction. It provides that if the school policy on fighting in the school hallway results in a 5–day in-school suspension, then this 5–day suspension would be applied equally to a child with a disability.

The provision allowing a change of placement ordered by school personnel for not more than 10 days continues as current law. However, the bill ensures that children with disabilities continue to receive educational services to continue to make progress towards the goals set out in the child's IEP if they are disciplined beyond the 10 days allowed under current law.

Finally, the bill balances the need to ensure that parents have the ability to appeal both placement and punishment decisions. The parent may appeal under the discipline provisions or may appeal under the general due process provisions. The parent can always request an IEP Team meeting to revise the child's IEP and educational placement under that IEP. If a parent believes the child with a disability should not have been punished in the first place, the parent continues to have remedies under the law to address the situation.

One of the explicit goals of the discipline improvements within the bill is to ensure classroom safety. The Committee often hears from classroom teachers and school principals that Federal law ties their hands in responding quickly and effectively to very serious student behavior problems and effective management of their classrooms. By allowing school personnel to respond to all situations in a classroom, school personnel have the complete ability to look out for the safety of all students. The discipline provisions in the bill gives school personnel the ability to create safe classrooms.

Most importantly, the bill's discipline provision will result in an improved education for children with disabilities. By removing the Federal micromanagement of schools, the bill allows teachers to create an environment that focuses on student academic achievement. The discipline provision creates a uniform standard for student behavior and sets clear expectations of students. These improvements return the focus of teachers and students to the learning that is happening in the classroom, which will improve academic achievement.

Additionally, the bill encourages schools to take advantage of alternative education programs for children with disabilities. Many school systems have programs set up to meet student behavior management needs, and the Committee encourages school personnel to let students with disabilities who have discipline problems take advantage of these programs. However, the bill does not mandate the creation of an alternative education program. It simply requires local educational agencies to continue to provide educational services as required under current law.

These improvements are widely supported in the education community. The American Federation of Teachers commented that the bill "makes important changes to provisions outlining how students with disabilities may be disciplined. The AFT supports the additional flexibility provided by these changes to assist schools in maintaining a safe and orderly environment." The National Association of Elementary School Principals wrote that the "elimination of the dual discipline system is another goal of NAESP members, according to our survey, and we have read with interest the language in H.R. 1350 that addresses this issue. We appreciate the language regarding violation of a code of student conduct policy and the elimination of the requirement for manifestation hearing and believe this will help to simplify the process that school offi-

cials undergo to create and maintain safe learning environments for all students."

Section 206. Monitoring, enforcement, withholding, and judicial review

Section 616. Monitoring, Enforcement, Withholding, and Judicial Review.

Lawrence C. Gloeckler, Deputy Commissioner of Vocational and Educational Services for Individuals with Disabilities at the New York State Education Department, testified before the Subcommittee on Education Reform that monitoring of the Act "must be allowed to focus on the mechanisms for improving outcomes for students, rather than devoting such extensive time and resources to the less significant but numerous process requirements."

The bill would add a new section 616(a) through (d) establishing a monitoring and enforcement section under the Act. The Committee is very concerned about the effectiveness of monitoring and enforcement under the Act. The President's Commission on Excellence in Special Education reported that the Department has often focused its monitoring efforts too much on process compliance and has paid little to no attention to monitoring for results. The Committee is encouraged by the Department's recent efforts in improving the monitoring of the Act, but recognizes that more progress needs to be made.

Required monitoring elements

The bill includes changes that would, for the first time, incorporate into the Act the important role of the Department in monitoring implementation of the Act, particularly with respect to improving academic achievement results for children with disabilities who are served under Parts B and C of the Act. Section 616(b) requires the Secretary to look at academic achievement results of children with disabilities on regular and alternate assessments, as well as graduation and dropout rates for children with disabilities. The Committee has identified these items as required indicators as they are crucial for evaluating the success of these programs.

Permissive monitoring elements

The Secretary may add other indicators, including those priorities identified as permissive indicators, as other data on improving results for children with disabilities become available, data quality improves, and the Secretary is confident that data can be used in a way that does not create unintended negative consequences for children with disabilities. For example, as appropriate measures of provision of appropriate educational services in the least restrictive environment that are sensitive to whether children with disabilities are receiving appropriate services in their various environments become available, the Secretary may add an indicator relative to that issue. As appropriate measures of program success for the Part C program are developed and data collected, the Secretary may add indicators specific to that program. The Committee expects that the Secretary will focus monitoring efforts on those areas identified in the lists of indicators and priorities identified in 616(b) and such other priorities as the Secretary may establish under 616(c).

Other monitoring efforts

The Committee recognizes that certain elements are critical to the sound functioning of the Act. These elements include placing children with disabilities in the least restrictive environment, an effective child find system, and effective State monitoring of the Act. However, the Committee is concerned that it is difficult to quantify results for these important elements without losing sight of the importance to make appropriate decisions for individual children. The Committee does not want the monitoring system established in the bill to penalize appropriate decisions made for the individual child that, when aggregated up to the local or State level appear to be inappropriate. However, the Committee expects that the Department will continue to monitor in these areas, and take appropriate enforcement actions under existing authorities to ensure that States comply with requirements regarding these important elements of the Act.

Compliance measures

The new section 616(d) would provide for compliance activities focused on progress in improving educational results for children with disabilities, and substantial compliance with the requirements of the Act. If the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary is required to take one or more of the specific actions listed in subsection (d)(2), which can include withholding between 20 and 50 percent of the total amount that the State can retain under 611(e). In addition, if the Secretary determines that a State is not in substantial compliance with any provision of the Act, the Secretary is required to take one or more of the specific actions listed in subsection (d)(3). In addition to enforcement actions available under current law, the list in subsection (d)(3) adds two new tools—the ability to suspend payments and to suspend a recipient's authority to obligate funds if the recipient is subject to a withholding action, comparable to authority available to the Secretary under other education funding programs in section 455(d) of the General Education Provisions Act; and new authority providing that if the Secretary has imposed special conditions on a recipient for three consecutive years and at the end of the third year the State has not demonstrated to the satisfaction of the Secretary that the violation has been corrected, the Secretary is required to take additional enforcement actions, choosing among a compliance agreement, a recovery of funds action or a withholding action.

Section 207. Administration

Section 617. Administration.

Section 617 includes new language designed to ensure that decisions made regarding curriculum, instructional content, or programs of instruction are made at the local level. Decisions made regarding school curricula have been and continue to be local decisions. The Federal government must take care not to override State and local decisions or use its influence to direct or control decisions best made at the local level. Specifically, nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local edu-

cational agency, or school's specific instructional content, curriculum, or program of instruction.

Paperwork reduction pilot

Reducing the paperwork burden of the Act is one of the Committee's top priorities for the reauthorization of the Act. Studies from the Department show that the Nation is facing a significant shortage of special education teachers, and many special educators leaving the field cite the burden of unnecessary paperwork as one of the primary reasons for their departure. The bill includes a pilot program to allow States to demonstrate innovative and creative measures to reduce the paperwork burden. This program is not meant to decrease any of the rights children have under the Act, but is intended to allow those States who choose to participate to think creatively and innovatively about how to best meet the demands of the Act while reducing the paperwork burden so school personnel can focus on educating children with disabilities. The bill also includes a rigorous reporting requirement to ensure that the Secretary reports to Congress about the success of this program in reducing unnecessary paperwork while preserving the rights of children served under the Act.

Model paperwork forms

The Committee understands that the paperwork forms associated with the Act are greatly varied from State to State and district to district. A standard IEP in one State could be seven pages while in a neighboring State that same child's IEP would be eighteen pages. While some of this variance is related to State or local policy, most of the differences relate to confusion regarding what the Act requires. The bill requires the Secretary to develop model forms for the IEP, prior written notice, and procedural safeguards notice. Each of these model forms will help inform local educational agency efforts as they develop their own forms and will result in decreased paperwork burdens while still ensuring that all of the requirements of the Act are met.

Section 208. Program information

Section 618. Program Information.

The bill retains the important data collection requirements under section 618, and adds new requirements relating to discipline actions within States to better inform Congress about the actions taken by States regarding disciplining children with disabilities.

Overidentification

Due to the Committee's desire to see the problems of overidentification of minority children strongly addressed, the bill maintains current requirements to collect data to determine if significant disproportionality based on race is occurring. If a State does make such a determination, the State is required to direct the local educational agency to use its authority under section 613 to implement a system of comprehensive coordinated prereferral services to serve children in the district, particularly children in those groups that are overidentified, to remedy the problem.

The Committee feels very strongly about the importance of this new provision and encourages States to take the necessary steps to

work with local educational agencies to remedy these problems. The referral and identification processes under this Act should be clear, consistent, and not subject to abuse. Children, particularly minority children, should not be referred, or determined to be eligible for special education, due to their race. The Committee is very concerned about data showing that African Americans are nearly three times as likely to be identified as mentally retarded as their peers and nearly twice as likely to be labeled emotionally disturbed. There is no scientific data or studies available to support these rates of identification, and this data clearly demonstrates that a problem exists. This provision, and other provisions throughout the bill, is clearly aimed at addressing the problem.

Section 209. Preschool grants.

Section 619. Preschool Grants

The bill makes minor technical and conforming changes to the section 619 Preschool Grants program.

TITLE III—INFANTS AND TODDLERS WITH DISABILITIES

Section 301. Sections 631 through 638 of the Individuals with Disabilities Education Act

Section 302. Sections 641 through 645 of the Individuals with Disabilities Education Act

In order for children to succeed in school, they need supportive environments that enhance social and cognitive development before they enter kindergarten. The goal of Part C is to provide children with disabilities with a solid foundation that will prepare them for success in the public school system and later in life. There are myriad challenges in meeting the needs of young children and their families, and the challenges are often more abundant and complex for children who have been diagnosed with a disability. For all children, the development of pre-literacy, numeracy and language skills is critical. The bill addresses the importance of ensuring school readiness by requiring that a child's Individualized Family Service Plan include goals for the development of pre-literacy and language skills and a plan for the appropriate transition of services for the child's entrance into school.

Expanded Part C option

The bill amends Part C to allow States to expand the options available to parents of the youngest children with disabilities. States will now be allowed to create a program where parents of children aging into the preschool program (which serves three through five year olds) can choose to remain in the Part C program with their current providers (including private providers). Each State would have to choose to make such a change and choose to continue serving this age range under the Part C program. This change will lessen transition problems for these young children who have been forced to move from a family-focused program to a school-based program at age three. In choosing this option, States must notify parents about the differences between programs operated under Part C and Part B and ensure that the rights and responsibilities under Part C still apply. Recognizing the need for an educational environment for three through five year olds, this bill adds an educational component that promotes school readiness and

incorporates scientifically based pre-literacy, language, and numeracy skills for those three through five year olds that continue under Part C. Offering States this option will allow parents to determine when their child is ready to transition to the Part B preschool program, rather than having that determination made for them by the Act.

Identification processes

The early years of a child's development lay the groundwork for future years and are critical years for children with disabilities and their families. Research shows that early identification and intervention can have a significant positive impact on children with disabilities and, in many cases, may help prevent the need for more costly services once a child reaches school age. Children with diagnosed disabilities who receive early support are more likely to attain greater levels of development.

The number of infants and toddlers receiving services has increased dramatically in recent years. This increase is largely a result of additional attention given to early identification and intervention services provided to children who are disabled or developmentally delayed.

The bill makes modest, yet important modifications to Part C. Provisions in the bill will help to ensure a more seamless transition of services from birth through school age, to enhance the coordination of services provided to young children with disabilities, and to ensure the availability of a comprehensive network of highly trained personnel to meet the needs of children with disabilities and their families.

Research on early childhood development demonstrates that infants and toddlers who have been abused or neglected are at increased risk of significant delays in language, cognition, and behavior. In fact, these children have rates of developmental delay approximately four to five times that found among children in the general population. One study found that more than half of over 200 children in foster care under the age of 31 months had language delays. Infants and toddlers who have been maltreated may also have significantly elevated proportions of insecure attachments, elevated rates of aggression, difficulty in forming close relationships and managing emotions, heightened anxiety, irritability, excessive crying, and sleep disruption.

Too many infants and toddlers who have been abused or neglected are falling through the cracks and are not receiving the early intervention services for which they may be eligible. Since studies show that over half of the children in foster care exhibit developmental delay when screened, there is a strong need for improving collaboration between the child welfare and Part C systems in order to provide early intervention services to those children.

To address this need, the bill requires States to develop policies to require referrals of all children under age 3 in a substantiated case of abuse or neglect to the Part C system for screening, and if appropriate, early intervention services. The bill also requires States to require referrals for all children who are born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication, or neonatal physical or neurological harm resulting from prenatal drug exposure. These changes provide an important en-

hancement of the State child find system and will help States identify infants and toddler who are in need of Part C services.

State interagency coordination

Many agencies and programs are involved in the delivery of Part C services, and the service system will function best and serve children better with strong linkages and collaboration between agencies and programs. The bill improves the ability of States to strengthen their collaborative efforts. The bill adds representatives from the State child welfare agency and the mental health agency to the State Interagency Coordinating Council. The current service system fails to address significant unmet mental health needs in young children because it lacks strong linkages with other systems where children at high risk for developmental delays are found, but where there is limited professional expertise on the mental health needs of infants and toddlers. It is the Committee's intent that inclusion of representatives from the child welfare and mental health agencies will help address this need.

In addition, the Committee believes improved coordination is one step toward improved service delivery of Part C services for children. Therefore, the bill requires States to provide a description of their efforts to promote collaboration between Early Head Start programs and child-care services under Part C of this Act.

Federal interagency coordinating committee

The bill removes the requirement that the Department establish a Federal Interagency Coordinating Committee. This entity has not provided the benefit that Congress intended when the entity was created, and has been an impediment to developing effective policy coordination at the Federal level.

TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

The discretionary programs under the Act support professional development, personnel preparation, research, technical assistance, model demonstration, dissemination of information, parent training and information centers, and media and technology services designed to benefit children with disabilities. Although the Department has supported many good projects under this section, the Committee is concerned that there has not been an effective overall plan to ensure that the programs and projects supported under Part D are designed to provide the maximum benefit across the nation. The bill restructures and reorganizes the activities conducted under Part D to improve the coordination of these activities and ensures that the impact of these activities is broadly disseminated to have a wide-reaching and positive impact on States, local educational agencies, teachers, parents, and children with disabilities.

Subpart 1—State professional development grants

The Honorable William Goodling, former Chairman of the Education and Workforce Committee, testified to the Education and Workforce Committee that "Teaching children with disabilities can be both the most rewarding and the most arduous job in teaching. We need professionals who not only have the commitment, but the skills in the classroom and with parents, to help students succeed."

The bill makes significant changes to Subpart 1 to refocus the discretionary State grants to professional development activities to ensure that regular education teachers, special education teachers, principals, school administrators, and related services providers receive high quality professional development to better serve children with disabilities.

The bill requires the State educational agency to partner with local educational agencies and at least one institution of higher education in the State. The State may also choose to include other entities or organizations in its partnership agreement. The Committee encourages States to develop agreements with organizations that can help improve the delivery of professional development.

Under the current program, the application process is complex, cumbersome, and inconsistent with developing a clear program. The requirements have not helped States develop a comprehensive professional development program and have been treated by the States as a paperwork exercise. The bill significantly simplifies the application requirements and requires the States to submit an application that contains a clear and concise plan on the efforts that the State will take to improve professional development programs within the State. The changes also ensure that the professional development programs the State implements under this program will deliver high quality services. States must undertake all of the activities listed in their application, thus eliminating the need to write over-arching applications with numerous activities that the State has no intention of implementing, but are deemed necessary for the application process.

The bill requires the State to use at least 90 percent of the funds under this program to provide direct programs of professional development to ensure that the personnel receiving the professional development will improve the delivery of instruction and other services to students in the classroom. The bill allows a State to use up to 10 percent of its funds under this program to conduct activities at the State level to improve professional development and to improve services for school personnel. The allowable activities authorized under this program are closely aligned with allowable activities under Title II of the Elementary and Secondary Education Act, and the Committee encourages States to coordinate activities to improve services under both programs.

Subpart 2—Scientifically based research; technical assistance; model demonstration projects; dissemination of information; and personnel preparation programs

The bill makes significant changes to Subpart 2 to refocus the programs that support research, technical assistance, model demonstration projects, dissemination of information, and personnel preparation programs. The Committee's goal is to improve the coordination, development, and delivery of information to enhance the ability of States, local educational agencies, teachers, and parents to provide services to children with disabilities.

Comprehensive plan

The bill modifies the requirement for the Department to develop a comprehensive plan. The Committee feels that the requirements under the current law regarding public consultation have been misinterpreted and the Department has been too focused on the planning process and not focused enough on actually developing a plan. The bill requires the Secretary to seek public input, but requires the Secretary to actually develop a comprehensive plan within one year of the date of enactment of the Act to ensure that there is a comprehensive agenda that examines and guides the entire system of services supported under this part of the Act. The Committee recognizes the importance of the planning process, but also encourages the Secretary to develop and implement a final plan.

Special education research

Terry Branstad, Chairman of the President's Commission on Excellence in Special Education, and former Governor of Iowa, testified to the Education and Workforce Committee about the Commission's report. In Chairman Branstad's remarks, he testified that "Research on special education needs enhanced rigor and the long-term coordination necessary to support the needs of children, educators and parents."

The bill makes significant changes to the Department's activities on research of special education. The bill establishes a National Center for Special Education Research within the Institute of Education Sciences and authorizes the creation of a Commissioner for Special Education Research to oversee the Institute's research into special education and related services. The bill requires the Commissioner, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, to develop a research plan to support the activities of the Act and serve the long-term interests of the Act.

The Committee feels that the Department should have one unified research arm that takes a broad view of the needs of education research, including special education research. This move will help ensure that the needs of children with disabilities are fully addressed not only within that arm of the Institute, but also through all other research functions at the Institute. The Committee also intends this move to improve the overall quality and rigor of the special education research conducted by the Department by holding it to the same standards as all other research, and to ensure that the needs of children with disabilities are inculcated throughout other research programs conducted at the Institute.

Technical assistance, demonstration, dissemination, and implementation of research

The Committee is very concerned about the effectiveness and quality of the Department's efforts to provide technical assistance to States, local educational agencies, school officials, teachers, and parents. The President's Commission on Excellence in Special Education reported that:

> Bridging the gap between research and practice will be a continuing challenge. Practices must continue to improve so children, their parents and their teachers have access to

> effective practices and instructional methods. A disturbing finding by this Commission is that we do not yet know the best methods of research dissemination. We have no research to show which methods prove more effective in reaching consumers.

The Committee shares these concerns and encourages the Department to significantly transform its practices to ensure that the Department effectively disseminates research based practices to benefit children with disabilities, their parents, teachers and schools. The bill continues to recognize the importance of technical assistance, demonstration projects, dissemination of information, and the implementation of scientifically based research. The bill requires the Department to support projects that address positive behavior supports; assessments and alternate assessments for children with disabilities; transitional activities to improve results for children with disabilities; and activities designed to improve services for children with disabilities. The bill also authorizes the Department to support other activities designed to improve services for children with disabilities.

Personnel preparation

The bill streamlines personnel preparation programs to focus on three activities (1) personnel preparation activities for regular and special education teachers, related services providers, and early intervention services, (2) personnel preparation activities for teachers of children with low-incidence disabilities, and (3) personnel preparation activities for leadership preparation.

The Committee feels that the Department should place a high priority on personnel preparation programs that are aligned with high standards and the production of personnel that meet rigorous State standards. The Committee also encourages the Department to support programs designed to improve the integration of related services in the special education and regular education environment. Assuring that States address related services personnel training needs will promote both the use of appropriate practices and more effective collaboration among special education personnel. The Committee also feels that effective and rigorous programs designed top provide high quality leadership personnel (i.e., principals and school administrators) is an important function of this part of the Act, and encourages the Department to ensure that these programs are of high quality.

Assessment of activities under the IDEA

The bill directs the Secretary to undertake an assessment of the activities carried out under the IDEA to determine the effectiveness of the Act in achieving its purposes to provide timely information on how to implement the Act more effectively. The Committee notes that since the last reauthorization, the Department has not finalized any elements of the assessment, including the required final report that was due prior to this reauthorization. The Committee encourages the Department to carefully review its plan to conduct an assessment and to take note of the reauthorization cycle to ensure that useful information is presented to Congress before the next reauthorization takes place to determine the effectiveness of the changes to the Act contained in this bill.

Parent training and information centers

The bill retains the authority for the Parent Training and Information Centers, but modifies their activities to focus on the priority of the Act, improved educational results for children with disabilities. The Committee is concerned that these centers do not have sufficient data to demonstrate their effectiveness, and encourages the Department to develop rigorous accountability measures to determine the effectiveness of individual centers and the program as a whole. The Committee strongly supports the Parent Training and Information Centers, but wants to ensure that they are providing high quality services to all parents. The bill requires the centers to explain in the application how they will serve all parents, particularly parents of minority, low-income, and limited English proficient students. The bill also retains the authority for the Community Parent and Resource Centers and encourages these centers to collaborate with Parent Training and Information Centers to ensure that there is a comprehensive system of centers to provide services to all parents.

Media and technology services

The bill retains the authority for the Secretary to fund projects related to the development, demonstration, and use of technology. The bill continues to support video description and captioning services of programs but changes the language to require a focus on education-based content to be used in the classroom. The Committee is encouraged by recent efforts at the Department to focus this education program on providing educationally relevant material as captioned under this program. However, the Committee wishes to ensure that there is an adequate supply of accessible materials for use in the classroom, and the change in the bill will help address this problem.

The Committee also recognizes the mandate by the Telecommunications Act of 1996 requiring that 95 percent of all television programs be captioned by January 1, 2006. The use of very small businesses to provide video description and captioning services is encouraged in order to develop additional captioning resources to meet the increased captioning requirements mandated by the Federal Communications Commission.

It is the Committee's intent that an eligible entity receiving funds under section 674(c)(4), (with respect to the provision of free educational materials in accessible media for visually impaired and print-disabled students), shall not charge students or their families a membership fee or charge them fees for education materials at any educational level that are produced with funds received under this section. However, it is the Committee's intent that the Secretary maintain current policy with respect to the ability for such eligible entity to continue to charge schools, States, local educational agencies and other educational entities participating in the programs at any educational level, a membership fee or charge them fees for educational materials that are produced with Federal funds, as a means to help offset the cost of producing and distributing these materials. The Committee further clarifies that institutions that are charged membership fees or other fees may not pass on these fees or other costs related to obtaining educational materials to the aforementioned students or their families.

Conclusion

H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003, enhances the IDEA by improving education results for children with disabilities. The bill is centered around the Committee's principles for reform: increasing accountability and improving education results for students with disabilities; reducing the paperwork burden; improving early intervention strategies; reducing the overidentification or misidentification of nondisabled children, including minority youth; encouraging innovative approaches to parental involvement and parental choice; supporting general education and special education teachers; restoring trust and reducing litigation; ensuring school safety; and reforming special education funding. Importantly, the bill clarifies the funding stream under the Act by establishing a clear path to the 40 percent goal through the discretionary appropriations process.

This bill refocuses the Act on its original intent—the education of children with disabilities. By aligning the Act's accountability system with the No Child Left Behind Act, the Act ensures that children with disabilities have the chance to learn and succeed academically. The bill also emphasizes early intervention as a means to reduce the overidentification and misidentification of children as disabled and placing them in special education where they do not belong hinders the academic development of these students. In an effort to stem the tide of special education teachers leaving the profession out of frustration with the overwhelming paperwork burden, the bill makes significant changes to reduce that burden while supporting both general and special education teachers who work with children with disabilities through personnel preparation and professional development. In making these changes, the Committee seeks to restore trust between schools and parents by encouraging the use of mediation and voluntary binding arbitration to speed the resolution time and setting a statute of limitations for when complaints must be filed. The bill modifies the discipline provisions to ensure that every student can learn in a safe school that supports an appropriate educational environment.

The Committee believes that H.R. 1350 makes important changes to the IDEA that will have the overall impact of improving the delivery of special education and related services to children with disabilities throughout the Nation, reduce overidentification of some students as having disabilities, improve the communication between parents and teachers, and reduce the complexity and litigiousness of the IDEA. H.R. 1350 will bring positive change to special education programs throughout the country and further the effort to ensure that no child is left behind.

SECTION-BY-SECTION ANALYSIS

Section 1. States the short title as the "Improving Education Results for Children With Disabilities Education Act of 2003."

TITLE I—GENERAL PROVISIONS

Section 101. Amends sections 601 through 603 under Part A of the Individuals with Disabilities Education Act.

"Section 601. States the short title as the "Individuals with Disabilities Education Act"; contains the findings, purposes, and table of contents for this Act.

"Section 602. Establishes definitions used in the Act.

"Section 603. Establishes the Office of Special Education Programs within the Office of Special Education and Rehabilitative Services of the Department of Education, to be administered by a Director; and contains provisions regarding voluntary and uncompensated services.".

Section 102. Amends sections 605 through 607 of the Act.

"Section 605. Sets forth provisions regarding the acquisition of equipment and construction or alteration of facilities.

"Section 606. Requires the Secretary to make positive efforts to employ qualified individuals with disabilities.

"Section 607. Contains provisions regarding the prescription of regulations; prohibits Secretary from implementing regulations that would violate protections afforded to children with disabilities under this Act; modifies the Department's authority on writing policy letters; and requires all policy interpretations to go through the regulatory process.".

Section 103. Amends Part A of the Act to add section 608 to require States to ensure State regulations comport with the Act and that any State imposed requirements or paperwork reporting requirements are clearly identified to local educational agencies and the Secretary.

Section 104. Requires the General Accounting Office to review paperwork requirements and report to Congress on strategic proposals to reduce the paperwork burden on teachers.

Section 105. Requires the General Accounting Office to review certain state definitions and evaluation processes and report to Congress no later than 2 years after the date of enactment of this Act.

Section 106. Requires the General Accounting Office to conduct a study of professional development programs delivered through technology and distance learning for special education personnel and report to Congress no later than 2 years after the date of enactment of this Act.

Section 107. Requires the Comptroller General to conduct a study on limited English proficient students no later than 2 years after the date of enactment of this Act.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

Section 201. Amends Section 611 of the Individuals with Disabilities Education Act to set forth provisions regarding grants to States; establishes a limit on the percentage of students with disabilities that a State may receive federal funds for; contains provisions regarding funds reserved for outlying areas; sets forth provisions regarding allocation of funds to States; requires States to reserve funds for grants to local education agencies that are identified as in need of improvement as a result, in whole or in part, of the performance of the disaggregated group of students with disabilities; contains provisions regarding funds used for State-level activities; sets forth provisions regarding subgrants to local educational agencies; sets forth provisions regarding the use of funds

by the Secretary of Interior; and contains provisions pertaining to the authorization of appropriations for this Part with the exception of Section 619.

Section 202. Amends Section 612(a) of the Act by requiring states to reasonably demonstrate to the Secretary that they have policies and procedures in effect to implement the Individuals with Disabilities Education Act regarding a free and appropriate education, child find, the individualized education program, the least restrictive environment, procedural safeguards, evaluations, confidentiality, overidentification and disproportionality, and the prohibition of psychotropic medication; sets forth provisions regarding children enrolled in private schools; contains provisions regarding the responsibilities of state educational agencies in carrying out this Part; contains provisions pertaining to procedural requirements in determining local agency eligibility; requires States to align performance goals and indicators to Title I under the No Child Left Behind Act; ensures that all students with disabilities participate in State or district assessment systems; sets forth provisions requiring States to establish mediation and voluntary binding arbitration systems; sets forth provisions regarding supplementation of state, local, and other federal funds; requires States to hold public hearings and an opportunity for public comment prior to the adoption of policies and procedures; contains provisions regarding the State advisory panel including membership and duties; requires parent representatives on State advisory panels to be of children ages birth through 26; section 612(b) sets forth provisions regarding states that provide direct services for children with disabilities; amends section 612(c) by providing an exception for states with prior state plans; amends section 612(d) to require approval by the Secretary; and amends 612(e) and provides assistance under other federal programs.

Section 203. Amends section 613 of the Act to require local educational agencies to provide assurances to State educational agencies that there are policies and procedures in effect to implement the Individuals with Disabilities Education Act; contains provisions regarding local uses of funds; provides exception to local educational agencies for prior local plans; allows State educational agencies to require local educational agencies to establish joint eligibility, with the exception of charter schools; sets forth provisions regarding prereferral services; contains provisions regarding direct services provided by the State educational agency; contains provisions regarding State agency eligibility; and allows States to require a local educational agency to include a record of disciplinary action taken against a child with a disability.

Section 204. Amends section 614 of the Act to set forth provisions regarding initial evaluations, parental consent, and revaluations and clarifies that the parent or local educational agency (and State educational agency where applicable) may initiate the request for an initial evaluation; places a focus on the educational needs of a child for the evaluation and reevaluation process; expands special rule for eligibility determination to state that lack of achievement, lack of scientifically based instruction in reading or math, or limited English proficiency, cannot be the determining factor for identification of a disability under the Individuals with Disabilities Education Act; defines the term individualized education program,

sets forth provisions regarding its content, and ensures that the IEP addresses academic achievement; phases out the requirement that the IEP include benchmarks or short-term objectives by 2005–2006, and allows students that take the alternate assessment to continue to include benchmarks or short-term objectives beyond that date; contains provisions regarding the IEP team; sets forth provisions encouraging local educational agencies to review the Individualized Family Service Plan (IFSP) when developing the child's first IEP; allows local educational agencies to offer a multiyear individualized education program and contains provisions regarding its execution; and sets forth provisions pertaining to alternative means of meeting participation.

Section 205. Amends Section 615(a) of the Act to require State educational agencies, State agencies, and local educational agencies receiving funds to establish procedures in accordance with this section; amends section 615(b) by allowing parents to the use mediation or voluntary binding arbitration; imposes a one year statute of limitations on the filing of a complaint; amends Section 615(c) to clarify that the parent is obligated to provide clear and specific notice to the local educational agency or State educational agency before a due process hearing can be held; amends section 615(d) to limit the number of times the procedural safeguards notice should be sent out to the initial referral for evaluation, annually, and upon the request of a parent; amends section 615(e) to allow for the use of mediation and voluntary binding arbitration; amends section 615(f) to require an IEP team meeting within 15 days of the receipt of a parent's request for a due process hearing to attempt to resolve dispute and gives the local educational agency a total of 30 days from the time the parent filed the complaint to resolve the complaint unless the parent and the local educational agency agree in writing to waive the meeting, otherwise the parent can proceed to a due process hearing; amends section 615(g) by striking subsection (g); amends section 615(h) by redesignating subsection (h) as subsection (g); (i) as (h) and amends current law to include provisions regarding the determination of amount of attorney's fees; (j) to (i); redesignates (k) as (j) and amends current law to allow school personnel discretion over the discipline of all student misbehavior for up to 45 school days (unless State law requires a longer time period for a misbehavior) and eliminates the manifestation determination; redesignates (l) as (k); and (m) as (l).

Section 206. Amends Section 616 of the Act stating the heading as "Monitoring, Enforcement, Withholding, and Judicial Review"; requires the Secretary to implement this Act and creates a new monitoring and enforcement system for the Individuals with Disabilities Act to improve the Department of Education's ability to monitor compliance with the Act; establishes indicators related to academic achievement, graduation, and dropout rates, and allows the Secretary to establish other indicators on which to judge the performance of States; establishes a system of consequences for non-compliance with the Act; and establishes a requirement that the Secretary take certain actions for continued non-compliance with the Act.

Section 207. Amends Section 617 of the Act to set forth provisions regarding the responsibilities of the Secretary in carrying out this Act; authorizes a pilot program for 10 States to reduce paper-

work and requires an annual report to Congress on the progress of the pilot; and requires the Secretary to develop model forms for the IEP, prior written notice, and procedural safeguards notice.

Section 208. Amends Section 618 of the Act to require States, local educational agencies, and the Secretary of Interior to provide annual data to the Secretary on children with disabilities; requires States to report on the number of mediations held and the number of settlement agreements reached; requires States to report on the number of voluntary binding arbitrations held and the number of settlement agreements reached; requires States to report on the number of hearings held and number of students referred to interim alternative education settings pursuant to discipline section; and requires local educational agencies that have been identified as having significant overidentification or disproportionality of minority students as being identified with a disability to reserve funds for prereferral services to address the overidentification problem.

Section 209. Amends Section 619 of the Act to set forth provisions regarding preschool grants including eligibility, allocation of funds to States, reservation of funds for State activities, State administration, administration of Part C, and other State-level activities; contains provisions pertaining to subgrants to local educational agencies; states that Part C does not apply to any child with a disability that receives funds under this section; and contains provisions regarding the authorization of appropriations.

TITLE III—INFANTS AND TODDLERS WITH DIABILITIES

Section 301. Amends Section 631 through 638 of the Individuals with Disabilities Education Act.

"Section 631. Sets forth the findings and policy of Part C of this Act.

"Section 632. Establishes definitions used under Part C of this Act.

"Section 633. Requires the Secretary to make grants to each State to implement a state-wide system to provide early intervention services for infants and toddlers with disabilities and their families.

"Section 634. Contains provisions regarding State eligibility.

"Section 635. Sets forth the requirements for the statewide early intervention system; and requires a State to have in place a comprehensive system of personnel development that results in a network of highly qualified and well-trained providers of early intervention services within the State.

"Section 636. Sets forth provisions regarding the individualized family service plan; includes provisions pertaining to the review process, parental consent, and plan content; adds new requirements to a child's Individualized Family Service Plan (IFSP) to include goals for the development of pre-literacy and language skills and a plan for the appropriate transition of services for the child's entrance into school.

"Section 637. Contains provisions with regard to the requirements for State applications and assurances and sets forth provisions pertaining to subsequent State applications and application modification.

"Section 638. Sets forth provisions regarding uses of funds.".

Section 302. Amends sections 641 through 645 of the Act.

"Section 641. Establishes a State interagency coordinating council in which the members and chairperson are appointed by the governor; and sets forth provisions regarding the council's composition and its functions.

"Section 642. Contains provisions with regard to federal administration.

"Section 643. Sets forth provisions pertaining to the allocation of funds; and contains definitions under the subsection.

"Section 644. Sets forth provisions regarding the authorization of appropriations.".

TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

Section 401. Amends Part D of the Individuals with Disabilities Education Act.

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

"Section 651. Contains the findings of Part D of this Act.

"Subpart 1—State Professional Development Grants

"Section 652. Sets forth the purpose of this subpart.

"Section 653. Sets forth provisions regarding eligibility, required partners, and optional partners.

"Section 654. Sets forth provisions pertaining to applications including the submission process, plan elements, and State plan; contains provisions requiring the Secretary to award grants on a competitive basis and may give priority on the basis of need; and contains provisions regarding peer review and reporting procedures.

"Section 655. Contains provisions regarding uses of funds, allowable State activities, contracts, and subgrants; and sets forth provisions regarding the use of funds for professional development.

"Section 656. Sets forth provisions regarding State grant amounts.

"Section 657. Sets forth the authorization of appropriations for subpart 1.

"Subpart 2—Scientifically Based Research; Technical Assistance; Model Demonstration; Dissemination of Information; and Personnel Preparation Programs

"Section 661. Sets forth the purpose of this subpart.

"Section 662. Requires the Secretary to develop and implement a comprehensive plan to carry out activities under this subpart and contains provisions regarding a public comment period, distribution of funds, and an annual report to Congress; sets forth provisions regarding eligible applicants and establishes priorities that the Secretary considers when awarding grants; requires applicants to demonstrate how they are addressing the needs of minority children with disabilities; contains provisions pertaining to applicant and recipient responsibilities and peer review application management; establishes a standing panel of experts to evaluate applications and sets forth provisions regarding panel membership and terms; and sets forth provisions regarding the use of funds for discretionary purposes, program evaluation, minimum funding requirements, and eligibility for financial assistance.

"Section 663. Establishes a National Center for Special Education Research at the Institute for Education Sciences to carry out special education research; sets forth provisions regarding comprehensive grants and applications; narrows the list of allowable research areas and adds new activities; requires the Secretary to develop a comprehensive research agenda; and requires the examination of the excess costs of educating students with disabilities, and addresses assessment alignment issues.

"Section 664. Requires the Secretary to support projects regarding positive behavior supports, improved alignment, compatibility and development of assessments and alternate assessments, and teacher training to address the needs of students with different learning styles; requires that projects use, to the extent practicable, research based projects that have been approved by the What Works Clearinghouse; and condenses list of allowable projects.

"Section 665. Requires the Secretary to make competitive grants, or enter into contracts or competitive agreements with eligible agencies that focus on personnel preparation programs; contains provisions regarding authorized activities dealing with personnel preparation, low-incidence disabilities, and leadership preparation; and sets forth provisions regarding applications, selection of recipients, service obligation, and scholarships.

"Section 666. Requires the Secretary, through delegation to the Director of the Institute of Education Sciences, to assess the implementation of this Act and the effectiveness of State and local programs; contains provisions pertaining to authorized activities; requires the Secretary to carry out a national assessment of the activities carried out under this Act; and contains provisions requiring the Secretary to publish a comprehensive plan for developing the national assessment for a 30 day public comment period.

"Section 667. Contains provisions regarding authorization of appropriations of this subpart.

"Subpart 3—Supports to Improve Results for Children With Disabilities

"Section 671. Sets forth the purposes of this subpart.

"Section 672. Allows the Secretary to make grants and enter into contracts and cooperative agreements with parent and community organizations; sets forth required and optional activities; contains provisions pertaining to application requirements and distribution of funds; requires a quarterly review by the board of directors or governing committee of organizations receiving grants; and states the definition of a parent organization.

"Section 673. Sets forth provisions with regard to community parent resource centers.

"Section 674. Allows the Secretary to provide technical assistance to eligible agencies for developing, assisting, and coordinating parent and community training and information programs; and contains provisions regarding authorized activities.

"Section 675. Requires the Secretary to provide competitive grants to eligible agencies to support activities promoting the development, demonstration, and utilization of technology; allows the Secretary to support media educational activities; contains provisions pertaining to authorized activities and applications; and sets forth the authorization of appropriations.".

Section 402. Authorizes the Secretary to continue to provide funding for community parent resource centers.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill, H.R. 1350, the "Improving Education Results for Children with Disabilities Act of 2003," enhances the Individuals with Disabilities Education Act by improving education results for children with disabilities, reducing paperwork to allow teachers to focus on spending more time with their students, reducing unnecessary litigation by improving communication between parents and schools, improving early intervention strategies, reducing over-identification/misidentification of non-disabled children (particularly minority youth), encouraging innovative approaches to parental involvement and parental choice, supporting general education and special education teachers, and ensuring school safety. The bill also restructures the national activities and discretionary programs under the Act on research, professional development, personnel preparation, technical assistance, dissemination of information, parent training and information centers, and community parent resource centers to improve services under the Act. This bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. H.R. 1350, "Improving Education Results for Children with Disabilities Act of 2003," enhances the Individuals with Disabilities Education Act by improving education results for children with disabilities, reducing paperwork to allow teachers to focus on spending more time with their students, reducing unnecessary litigation by improving communication between parents and schools, improving early intervention strategies, reducing over-identification/misidentification of non-disabled children (particularly minority youth), encouraging innovative approaches to parental involvement and parental choice, supporting general education and special education teachers, and ensuring school safety. The bill also restructures the national activities and discretionary programs under the Act on research, professional development, personnel preparation, technical assistance, dissemination of information, parent training

and information centers, and community parent resource centers to improve services under the Act. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 **BILL** H.R. 1350 **DATE** April 10, 2003
AMENDMENT NUMBER 2 **DEFEATED 22 – 26**
SPONSOR/AMENDMENT Ms. Woolsey / amendment to require all new IDEA funding be mandatory

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS				X
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER		X		
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS	X			
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	22	26		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 2 **BILL** H.R. 1350 **DATE** April 10, 2003

AMENDMENT NUMBER 29 **DEFEATED 21 – 27**

SPONSOR/AMENDMENT Mr. Andrews / amendment to restore existing law regarding the determination of amount of attorneys' fees

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS				X
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER		X		
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS	X			
Mr. CASE		X		
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	21	27		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 3 **BILL** H.R. 1350 **DATE** April 10, 2003
AMENDMENT NUMBER 6 **DEFEATED 22 - 26**
SPONSOR/AMENDMENT Mr. Tierney / amendment regarding manifestation determination

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS				X
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER		X		
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS	X			
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	22	26		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 4 BILL H.R. 1350 DATE April 10, 2003

AMENDMENT NUMBER 11 DEFEATED 22 - 26

SPONSOR/AMENDMENT Ms. Woolsey/ amendment to require that IDEA Part B be a mandatory funding program

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS				X
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER		X		
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS	X			
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	22	26		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 5 **BILL** H.R. 1350 **DATE** April 10, 2003

AMENDMENT NUMBER 21 **DEFEATED 22 - 26**

SPONSOR/AMENDMENT Mr. Van Hollen / amendment to require IDEA Part B be a mandatory funding program in connection with "No Child Left Behind Act"

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS				X
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER		X		
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER		X		
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS	X			
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	22	26		1

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 6 **BILL** H.R. 1350 **DATE** April 10, 2003

H.R. 1350 was ordered favorably reported, as amended, by a vote of 29 - 19

SPONSOR/AMENDMENT Mr. Petri / motion to report the bill to the House with an amendment and with the recommendation that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mr. BALLENGER	X			
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. GREENWOOD	X			
Mr. NORWOOD	X			
Mr. UPTON	X			
Mr. EHLERS				X
Mr. DeMINT	X			
Mr. ISAKSON	X			
Mrs. BIGGERT	X			
Mr. PLATTS	X			
Mr. TIBERI	X			
Mr. KELLER	X			
Mr. OSBORNE	X			
Mr. WILSON	X			
Mr. COLE	X			
Mr. PORTER	X			
Mr. KLINE	X			
Mr. CARTER	X			
Mrs. MUSGRAVE	X			
Mrs. BLACKBURN	X			
Mr. GINGREY	X			
Mr. BURNS	X			
Mr. MILLER		X		
Mr. KILDEE		X		
Mr. OWENS		X		
Mr. PAYNE		X		
Mr. ANDREWS	X			
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KIND	X			
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. DAVIS		X		
Ms. McCOLLUM		X		
Mr. DAVIS		X		
Mr. CASE		X		
Mr. GRIJALVA		X		
Ms. MAJETTE	X			
Mr. VAN HOLLEN		X		
Mr. RYAN		X		
Mr. BISHOP		X		
TOTALS	29	19		1

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1350 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 28, 2003.

Hon. JOHN A. BOEHNER,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Donna Wong.

Sincerely,

BARRY B. ANDERSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 1350—Improving Education Results for Children with Disabilities Act of 2003

Summary: H.R. 1350 would reauthorize various programs under the Individuals with Disabilities Education Act (IDEA) that were authorized through 2002. These programs were authorized in 2003 by the General Education Provisions Act (GEPA) and the Consolidated Appropriations Resolution, 2003 (Public Law 108–7). H.R. 1350 would reauthorize these programs through 2009. The bill also would amend two programs that are permanently authorized by IDEA.

The bill would authorize additional appropriations of $3.1 billion in 2004. CBO estimates that the new authorizations under H.R. 1350 would total about $50 billion over the 2004–2009 period, assuming that annual levels are adjusted to keep pace with inflation when specific annual authorizations are not provided. CBO estimates that appropriations of those authorized levels would result in additional outlays of $32 billion over the 2004–2009 period. Enacting H.R. 1350 would not affect direct spending or receipts.

H.R. 1350 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any requirements on states or educational institutions would be

conditions for receiving federal grants; the bill would authorize the appropriation of about $49 billion over the 2004–2009 period for such grants.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1350 is shown in Table 1. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1350, THE IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

	By fiscal year, in millions of dollars—						
	2003	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION							
With Adjustments for Inflation							
IDEA Spending Under Current Law:							
Estimated Authorization Level [1]	9,434	9,323	9,506	9,708	9,910	10,130	10,350
Estimated Outlays	8,152	9,484	9,580	9,595	9,755	9,963	10,180
Proposed Changes:							
Estimated Authorization Level	0	3,063	5,206	7,404	9,403	11,386	13,369
Estimated Outlays	0	61	2,034	4,346	6,567	8,633	10,631
IDEA Spending Under H.R. 1350:							
Estimated Authorization Level	9,434	12,386	14,712	17,112	19,312	21,515	23,718
Estimated Outlays	8,152	9,545	11,614	13,941	16,322	18,596	20,812

[1] The 2003 level is the amount appropriated for that year for all programs. The 2004 through 2009 levels are the baseline amounts for the Grants to States and the Preschool state grants programs, which are permanently authorized under IDEA. The 2004 level includes an advance appropriation of $5.7 billion in the Grants to States programs.

Note.—Components may not sum to totals because of rounding.

Basis of estimate: H.R. 1350 would reauthorize funding through 2009 for various programs created under IDEA. The bill also would amend funding authorizations for two programs that are permanently authorized by IDEA.

Most programs authorized under IDEA would be reauthorized at specific levels for 2004 and for such sums as may be necessary for 2005 through 2009. Funding for the Grants to States program, which is permanently authorized at such sums as necessary, would be authorized at specific levels for 2004 through 2010 and at such sums as may be necessary for subsequent years. Funding for the Preschool state grants program, which is also permanently authorized, would be authorized at a specific level in 2004 and such sums as may be necessary in subsequent years.

Table 2 presents CBO's estimates with inflation adjustments for the various components of each title under H.R. 1350. The estimated outlays reflect historical rates of spending for the affected programs.

The current-law levels for 2003 shown in tables 1 and 2 are the amounts appropriated that year for all IDEA programs. Amounts authorized under current law for years 2004 through 2009 are CBO's baseline projections for the two programs that are permanently authorized and include an advance appropriation of $5.7 billion in 2004 for the Grants to States program.

H.R. 1350 would authorize additional appropriations of $3.1 billion in 2004. CBO estimates that this bill would authorize total additional funding of $50 billion over the 2004–2009 period assuming that "such sums" amounts provided after 2004 are adjusted for inflation. If the authorized amounts are appropriated, outlays would

increase by $61 million in the first year and by $32 billion over the six-year period.

Title I of the bill would provide general provisions and definitions for IDEA. Titles II through IV would authorize funding for IDEA programs, and the estimated costs for implementing each of those three titles are described below.

Title II: Assistance for Education of All Children With Disabilities

Title II would amend the Grants to States program and the Preschool state grants program. Funding for both programs is permanently authorized by IDEA at such sums as may be necessary, which CBO estimates as the baseline level using the 2003 appropriations as the starting point. The baseline level in 2004 for the two programs is a total of $9.3 billion (including the advance appropriation of $5.7 billion for the Grants to States program).

H.r. 1350 would authorize an additional $2.3 billion above the current-law baseline (for a total of $11.6 billion) for 2004 for programs under title II. CBO estimates that total additional funding for title II for the 2004–2009 period would be $44.7 billion (for a total of $103.6 billion) with resulting additional outlays of about $28.4 billion ($78 billion total) over those six years.

Grants to States. H.R. 1350 would authorize total amounts of about $11.1 billion in 2004 and gradually raise that to about $25.2 billion in 2010, and such sums as may be necessary for 2011 and each subsequent fiscal year for the Grants to States programs. These authorizations would be $2.1 billion above baseline levels in 2004 and about $15.1 billion higher by 2010.

TABLE 2.—DETAILED EFFECTS OF H.R. 1350, IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003, WITH ADJUSTMENTS FOR INFLATION

	By fiscal year, in millions of dollars—						
	2003	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION							
IDEA Spending Under Current Law:							
Budget Authority/Authorization Level [1]	9,434	9,323	9,506	9,708	9,910	10,130	10,350
Estimated Outlays	8,152	9,484	9,580	9,595	9,755	9,963	10,180
Proposed Changes							
Title II: Assistance for Education of All Children with Disabilities:							
Grants to States:							
Estimated Authorization Level	0	2,146	4,270	6,449	8,427	10,389	12,350
Estimated Outlays	0	43	1,437	3,463	5,620	7,655	9,643
Preschool Grants:							
Estimated Authorization Level	0	106	108	110	113	115	118
Estimated Outlays	0	2	69	102	109	112	114
Subtotal, Title II:							
Estimated Authorization Level	0	2,252	4,378	6,559	8,540	10,504	12,468
Estimated Outlays	0	45	1,506	3,565	5,729	7,777	9,757
Title III: Infants and Toddlers with Disabilities:							
Infants and Toddlers Grants:							
Estimated Authorization Level	0	447	456	465	475	486	496
Estimated Outlays	0	9	291	431	462	471	482
Title IV: National Activities:							
State Professional Development Grants:							
Estimated Authorization Level	0	44	45	46	47	48	49
Estimated Outlays	0	1	29	42	45	46	47
Research, Technical Assistance, Demonstrations, and Dissemination:							
Estimated Authorization Level	0	172	175	179	183	187	191

TABLE 2.—DETAILED EFFECTS OF H.R. 1350, IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003, WITH ADJUSTMENTS FOR INFLATION—Continued

	By fiscal year, in millions of dollars—						
	2003	2004	2005	2006	2007	2008	2009
Estimated Outlays	0	3	112	166	178	181	185
Personnel Preparation Program:							
Estimated Authorization Level	0	90	92	94	96	98	100
Estimated Outlays	0	2	59	87	93	95	97
Technical Assistance for Parent Training and Information Centers [2]:							
Estimated Authorization Level	0	33	33	34	35	36	36
Estimated Outlays	0	1	21	32	34	35	35
Parent Training and Information Centers:							
Estimated Authorization Level	0	26	27	27	28	28	29
Estimated Outlays	0	1	17	25	27	27	28
Subtotal, Title IV:							
Estimated Authorization Level	0	365	372	380	388	396	405
Estimated Outlays	0	7	237	351	377	385	393
Total Proposed Changes:							
Estimated Authorization Level	0	3,063	5,206	7,404	9,403	11,386	13,369
Estimated Outlays	0	61	2,034	4,346	6,567	8,633	10,631
Total IDEA Spending Under H.R. 1350:							
Estimated Authorization Level	9,434	12,386	14,712	17,112	19,312	21,515	23,718
Estimated Outlays	8,152	9,545	11,614	13,941	16,322	18,596	20,812

[1] The 2003 level is the amount appropriated for that year for all programs. The 2004 through 2009 levels are the baseline amounts for the Grants to States and the Preschool state grants programs which are permanently authorized under IDEA. The 2004 level includes an advance appropriation of $5.7 billion for the Grants to States program.

[2] Authorization was intended to authorize appropriations for Technology Development, and Demonstration, and Media Services.

Note.—Components may not sum to totals because of rounding.

The state grant program provides formula grants to states to assist them in covering the excess costs of providing special education services to children with disabilities. Funding for this program currently is provided on an academic year basis through appropriations in two separate fiscal years: a forward-funded appropriation which is available July 1 of the current fiscal year, and an advance appropriation available October 1 of the next fiscal year. Although the program has been funded by two separate appropriations since 2001, funding does not need to be authorized separately because all of the funds for an academic year could be provided in one appropriation. The program is funded at just under $8.9 billion in academic year 2003–2004.

Preschool State Grants. H.R. 1350 would authorize $500 million in 2004, and such sums as may be necessary for each subsequent fiscal year for the Preschool grants program. The Preschool program provides additional grants to states for providing special education services to children ages three through five. The program is funded at $387 million in 2003.

Title III: Infants and Toddlers with Disabilities

Title III would reauthorize the infants and toddlers state grant program. CBO estimates that total funding for title III for the 2004–2009 period would be $2.8 billion, assuming adjustments for inflation, with resulting outlays of about $2.1 billion over those six years.

The bill would authorize $447 million in 2004 and such sums as may be necessary over the 2005–2009 period for the program. The infants and toddlers program provides funds to states for early intervention and identification activities. The program is funded at $434 million in 2003.

Title IV: National Activities to Improve Education of Children with Disabilities

Title IV would reauthorize and revise several national activities including state professional development grants, scientifically based research, and parent and community training and information centers. Title IV would authorize $365 million in 2004 and $2.3 billion over the 2004–2009 period for these programs. CBO estimates that the resulting outlays would be about $7 million in 2004 and $1.8 billion over the 2004–2009 period.

State Professional Development Grants. The bill would authorize $44 million in 2004 and such sums as may be necessary for the next five years for state profession development grants. The state professional development grant program would provide competitive grants to states to improve their systems for professional development in early intervention, educational and transitional services for children with disabilities. The current state improvement program is funded at $51 million in 2003.

Scientifically Based Research; Technical Assistance; Demonstration Projects; Dissemination of Information; Studies and Evaluations. The bill would authorize $172 million in 2004 and such sums as may be necessary for the next five years for the National Center for Special Education Research, regional research centers, demonstration and outreach projects, and assessment activities. Comparable activities are funded at $130 million in 2003.

Personnel Preparation Programs. The bill would authorize $90 million in 2004 and such sums as may be necessary for the next five years for competitive awards to states or other organizations to fund programs that address personnel needs. Comparable activities are funded at $92 million in 2003.

Technical Assistance for Parent Training and Information Centers. The bill would authorize about $33 million in 2004 and such sums as may be necessary for the next five years for technical assistance for parent training and information centers; but it appears that the bill incorrectly refers to the wrong section of IDEA. The authorization was intended to authorize appropriations for technology development, demonstration and utilization, and media services—programs that provide funds for activities that increase access to the classroom for children with disabilities. These programs focus on services for individuals who are deaf or blind such as video and closed captioned television. Comparable activities are funded at $38 million in 2003.

Parent Training and Information Centers. The bill would authorize $26 million in 2004 and such sums as may be necessary for the next five years for parent training and information centers. The regional centers provide information, training, and referral services to parents of children with disabilities. Comparable activities are funded at $26 million in 2003.

Intergovernmental and private-sector impact: The provisions of IDEA apply to states and educational institutions as recipients of federal grants. Consequently, any requirements that would be created or extended by H.R. 1350 would be conditions of federal aid and not intergovernmental or private-sector mandates as defined in UMRA. Under current law, states received about $8.9 billion under IDEA's basic state grant program in academic year 2003, which CBO estimates equals about 18 percent of the average per pupil ex-

penditure for all children. Other grants to states totaled about $1 billion in 2003. H.R. 1350 would authorize an additional appropriation of about $49 billion over the 2004–2009 period for all IDEA grants to states.

Estimate prepared by: Federal Costs: Donna Wong; Impact on State, Local, and Tribal Governments: Theresa Gullo and Leo Lex; and Impact on the Private Sector: Nabeel Alsalam.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with Clause (3)(c) of House rule XIII, the goal of H.R. 1350, "Improving Education Results for Children with Disabilities Act of 2003," is to enhance the Individuals with Disabilities Education Act by improving education results for children with disabilities, reducing paperwork to allow teachers to focus on spending more time with their students, reducing unnecessary litigation by improving communication between parents and schools, improving early intervention strategies, reducing over-identification/misidentification of non-disabled children (particularly minority youth), encouraging innovative approaches to parental involvement and parental choice, supporting general education and special education teachers, and ensuring school safety. The bill also restructures the national activities and discretionary programs under the Act on research, professional development, personnel preparation, technical assistance, dissemination of information, parent training and information centers, and community parent resource centers to improve services under the Act. The Committee expects the Department of Education to comply with H.R. 1350 and implement the changes to the law in accordance with the changes.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 1350. The Committee believes that the amendments made by this bill, which authorize appropriations for education assistance, are within Congress' authority under Article I, section 8, clause 1 of the Constitution.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1350. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

PART A—GENERAL PROVISIONS

[SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

[(a) SHORT TITLE.—This Act may be cited as the "Individuals with Disabilities Education Act".

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[PART A—GENERAL PROVISIONS

[Sec. 601. Short title; table of contents; findings; purposes.
[Sec. 602. Definitions.
[Sec. 603. Office of Special Education Programs.
[Sec. 604. Abrogation of State sovereign immunity.
[Sec. 605. Acquisition of equipment; construction or alteration of facilities.
[Sec. 606. Employment of individuals with disabilities.
[Sec. 607. Requirements for prescribing regulations.

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

[Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
[Sec. 612. State eligibility.
[Sec. 613. Local educational agency eligibility.
[Sec. 614. Evaluations, eligibility determinations, 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. Federal Interagency Coordinating Council.
[Sec. 645. Authorization of appropriations.

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

[SUBPART 1—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES

[Sec. 651. Findings and purpose.
[Sec. 652. Eligibility and collaborative process.
[Sec. 653. Applications.
[Sec. 654. Use of funds.
[Sec. 655. Minimum State grant amounts.
[Sec. 656. Authorization of appropriations.

[SUBPART 2—COORDINATED RESEARCH, PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

[Sec. 661. Administrative provisions.

[CHAPTER 1—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED RESEARCH AND PERSONNEL PREPARATION

[Sec. 671. Findings and purpose.
[Sec. 672. Research and innovation to improve services and results for children with disabilities.
[Sec. 673. Personnel preparation to improve services and results for children with disabilities.
[Sec. 674. Studies and evaluations.

[CHAPTER 2—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

[Sec. 681. Findings and purposes.
[Sec. 682. Parent training and information centers.
[Sec. 683. Community parent resource centers.
[Sec. 684. Technical assistance for parent training and information centers.
[Sec. 685. Coordinated technical assistance and dissemination.
[Sec. 686. Authorization of appropriations.
[Sec. 687. Technology development, demonstration, and utilization, and media services.

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

[(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

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

[(A) the special educational needs of children with disabilities were not being fully met;

[(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;

[(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

[(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from having a successful educational experience because their disabilities were undetected; and

[(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

[(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public

education and in improving educational results for children with disabilities.

[(4) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

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

[(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible;

[(B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

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

[(D) providing appropriate special education and related services and aids and supports in the regular classroom to such children, whenever appropriate;

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

[(i) to meet developmental goals and, to the maximum extent possible, those challenging expectations that have been established for all children; and

[(ii) to be prepared to lead productive, independent, adult lives, to the maximum extent possible;

[(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and

[(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results.

[(6) While States, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

[(7)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

[(B) America's racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white

Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians.

[(C) By the year 2000, this Nation will have 275,000,000 people, nearly one of every three of whom will be either African-American, Hispanic, Asian-American, or American Indian.

[(D) Taken together as a group, minority children are comprising an ever larger percentage of public school students. Large-city school populations are overwhelmingly minority, for example: for fall 1993, the figure for Miami was 84 percent; Chicago, 89 percent; Philadelphia, 78 percent; Baltimore, 84 percent; Houston, 88 percent; and Los Angeles, 88 percent.

[(E) Recruitment efforts within special education must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

[(F) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited English proficient students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that services provided to limited English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

[(8)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

[(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

[(C) Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterpart.

[(D) Although African-Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.

[(E) The drop-out rate is 68 percent higher for minorities than for whites.

[(F) More than 50 percent of minority students in large cities drop out of school.

[(9)(A) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

[(B) In 1993, of the 915,000 college and university professors, 4.9 percent were African-American and 2.4 percent were Hispanic. Of the 2,940,000 teachers, prekindergarten through high school, 6.8 percent were African-American and 4.1 percent were Hispanic.

[(C) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

[(D) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

[(E) Ten years ago, 12 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 13 percent minority, while one-third of the students in public schools are minority children.

[(F) As recently as 1991, historically black colleges and universities enrolled 44 percent of the African-American teacher trainees in the Nation. However, in 1993, historically black colleges and universities received only 4 percent of the discretionary funds for special education and related services personnel training under this Act.

[(G) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

[(H) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D. levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

[(10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

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

[(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

[(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

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

[(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

[(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

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

[SEC. 602. DEFINITIONS.

[Except as otherwise provided, as used in this Act:

[(1) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

[(2) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

[(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

[(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

[(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

[(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

[(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

[(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

[(3) CHILD WITH A DISABILITY.—

[(A) IN GENERAL.—The term "child with a disability" means a child—

[(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

[(ii) who, by reason thereof, needs special education and related services.

[(B) CHILD AGED 3 THROUGH 9.—The term "child with a disability" for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child—

[(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

[(ii) who, by reason thereof, needs special education and related services.

[(4) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency"—

[(A) means a regional public multiservice agency—

[(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

[(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

[(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

[(5) ELEMENTARY SCHOOL.—The term "elementary school" means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

[(6) EQUIPMENT.—The term "equipment" includes—

[(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

[(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

[(7) EXCESS COSTS.—The term "excess costs" means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

[(A) amounts received—

[(i) under part B of this title;

[(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; or

[(iii) under part A of title VII of that Act; and

[(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

[(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term "free appropriate public education" means special education and related services that—

[(A) have been provided at public expense, under public supervision and direction, and without charge;

[(B) meet the standards of the State educational agency;

[(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

[(D) are provided in conformity with the individualized education program required under section 614(d).

[(9) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

[(10) INDIAN TRIBE.—The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

[(11) INDIVIDUALIZED EDUCATION PROGRAM.—The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

[(12) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term "individualized family service plan" has the meaning given such term in section 636.

[(13) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability" has the meaning given such term in section 632.

[(14) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education"—

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

[(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

[(15) LOCAL EDUCATIONAL AGENCY.—

[(A) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

[(B) The term includes—

[(i) an educational service agency, as defined in paragraph (4); and

[(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

[(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

[(16) NATIVE LANGUAGE.—The term "native language", when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.

[(17) NONPROFIT.—The term "nonprofit", as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[(18) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[(19) PARENT.—The term "parent"—

[(A) includes a legal guardian; and

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

[(20) PARENT ORGANIZATION.—The term "parent organization" has the meaning given that term in section 682(g).

[(21) PARENT TRAINING AND INFORMATION CENTER.—The term "parent training and information center" means a center assisted under section 682 or 683.

[(22) RELATED SERVICES.—The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

[(23) SECONDARY SCHOOL.—The term "secondary school" means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

[(24) SECRETARY.—The term "Secretary" means the Secretary of Education.

[(25) SPECIAL EDUCATION.—The term "special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

[(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

[(B) instruction in physical education.

[(26) SPECIFIC LEARNING DISABILITY.—

[(A) IN GENERAL.—The term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

[(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

[(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

[(27) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

[(28) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

[(29) SUPPLEMENTARY AIDS AND SERVICES.—The term "supplementary aids and services" means, aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

[(30) TRANSITION SERVICES.—The term "transition services" means a coordinated set of activities for a student with a disability that—

[(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

[(B) is based upon the individual student's needs, taking into account the student's preferences and interests; and

[(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

[SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

[(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

[(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

[(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.]

SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Individuals with Disabilities Education Act".

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

PART A—GENERAL PROVISIONS

Sec. 601. Short title; table of contents; findings; purposes.
Sec. 602. Definitions.
Sec. 603. Office of Special Education Programs.
Sec. 604. Abrogation of State sovereign immunity.
Sec. 605. Acquisition of equipment; construction or alteration of facilities.
Sec. 606. Employment of individuals with disabilities.
Sec. 607. Requirements for prescribing regulations.
Sec. 608. State administration.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
Sec. 612. State eligibility.
Sec. 613. Local educational agency eligibility.
Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
Sec. 615. Procedural safeguards.
Sec. 616. Monitoring, enforcement, withholding, and judicial review.
Sec. 617. Administration.
Sec. 618. Program information.
Sec. 619. Preschool grants.

PART C—INFANTS AND TODDLERS WITH DISABILITIES

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

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

Sec. 651. Findings.

SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

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

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

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

Sec. 666. Studies and evaluations.
Sec. 667. Authorization of appropriations.

SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES

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

(c) FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the special educational needs of millions of children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

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

(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order—

(i) to meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

(ii) to be prepared to lead productive and independent adult lives, to the maximum extent possible;

(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this Act with other local, State, and Federal school improvement efforts, including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

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

(E) providing incentives for scientifically based reading programs and prereferral intervention services to reduce the need to label children as disabled in order to address their learning needs;

(F) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children with disabilities.

(5) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government has a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(6) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(7)(A) The Federal Government must respond to the growing needs of an increasingly diverse society.

(B) America's ethnic profile is rapidly changing. In the year 2000, nearly one of every three persons in America was a member of a minority group or was limited English proficient.

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

(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

(8)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

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

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

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) African American children are overidentified as having mental retardation and emotional disturbance at rates greater than their white counterparts.

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

(E) Studies have found that schools with predominantly Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

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

(B) The opportunity for full participation by minority individuals, organizations, and historically black colleges and universities in awards for grants and contracts, boards of organizations receiving assistance under this Act, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

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

(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

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

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

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

SEC. 602. DEFINITIONS.

Except as otherwise provided, as used in this Act:

(1) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

(2) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

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

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

(3) CHILD WITH A DISABILITY.—

(A) IN GENERAL.—The term "child with a disability" means a child—

(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

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

(B) CHILD AGED 3 THROUGH 9.—The term "child with a disability" for a child aged 3 through 9 or any subset of that age range, including ages 3 through 5, may, at the discretion of the State and the local educational agency, include a child—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

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

(4) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency"—

(A) means a regional public multiservice agency—

(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

(5) ELEMENTARY SCHOOL.—The term "elementary school" means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

(6) EQUIPMENT.—The term "equipment" includes—

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

(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

(7) EXCESS COSTS.—The term "excess costs" means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under part B of this title;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

(iii) under title III of that Act; and

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

(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term "free appropriate public education" means special education and related services that—

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

(B) meet the standards of the State educational agency;

(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

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

(9) HIGHLY QUALIFIED.—The term "highly qualified" has the same meaning as that term in section 9101 of the Elementary and Secondary Education Act of 1965.

(10) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(11) INDIAN TRIBE.—The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(12) INDIVIDUALIZED EDUCATION PROGRAM.—The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

(13) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term "individualized family service plan" has the meaning given such term in section 636.

(14) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability" has the meaning given such term in section 632.

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education"—

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

(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

(16) LOCAL EDUCATIONAL AGENCY.—

(A) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes—

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

(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(17) NATIVE LANGUAGE.—The term "native language", when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or, in the case of a child, the language normally used by the parents of the child.

(18) NONPROFIT.—The term "nonprofit", as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(19) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(20) PARENT.—The term "parent"—

(A) includes a legal guardian; and

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

(21) PARENT ORGANIZATION.—The term "parent organization" has the meaning given that term in section 672(g).

(22) PARENT TRAINING AND INFORMATION CENTER.—The term "parent training and information center" means a center assisted under sections 672 and 673.

(23) RELATED SERVICES.—The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(24) SECONDARY SCHOOL.—The term "secondary school" means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

(25) SECRETARY.—The term "Secretary" means the Secretary of Education.

(26) SPECIAL EDUCATION.—The term "special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(27) SPECIFIC LEARNING DISABILITY.—

(A) IN GENERAL.—The term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(28) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(29) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(30) SUPPLEMENTARY AIDS AND SERVICES.—The term "supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to

be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

(31) TRANSITION SERVICES.—The term "transition services" means a coordinated set of activities for a child with a disability that—

(A) is designed within a results-oriented process, that is focused on improving the academic and developmental achievement of the child with a disability to facilitate the child's move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based upon the individual child's needs, taking into account the child's skills, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

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[SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

[(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

[(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

[(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities"); or

[(2) appendix A of part 101-19.6 of title 41, Code of Federal Regulations (commonly known as the "Uniform Federal Accessibility Standards").

[SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

[The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

[SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

[(a) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

[(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

[(c) POLICY LETTERS AND STATEMENTS.—The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirements of section 553 of title 5, United States Code.

[(d) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

[(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

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

[(e) ISSUES OF NATIONAL SIGNIFICANCE.—If the Secretary receives a written request regarding a policy, question, or interpretation under part B of this Act, and determines that it raises an issue of general interest or applicability of national significance to the implementation of part B, the Secretary shall—

[(1) include a statement to that effect in any written response;

[(2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and

[(3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means

as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking.

[(f) EXPLANATION.—Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation that the written response—

[(1) is provided as informal guidance and is not legally binding; and

[(2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.]

SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities"); or

(2) appendix A of part 101–19.6 of title 41, Code of Federal Regulations (commonly known as the "Uniform Federal Accessibility Standards").

SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities, particularly as teachers, related services personnel, early intervention providers, and administrators, in programs assisted under this Act.

SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

(a) IN GENERAL.—The Secretary may issue regulations under this Act only to the extent that such regulations are reasonably necessary to ensure that there is compliance with the specific requirements of this Act.

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

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

(2) procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 60 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including on issues of national significance) that—

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

(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.

(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

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

(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

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

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

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

(2) is provided as informal guidance and represents only the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented in the original question.

SEC. 608. STATE ADMINISTRATION.

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

(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and

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

(b) SUPPORT AND FACILITATION.—All State rules, regulations, and policies relating to this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

[SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

[(a) GRANTS TO STATES.—

[(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

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

[(A) the number of children with disabilities in the State who are receiving special education and related services—

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

[(ii) aged 6 through 21; multiplied by

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

[(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES.—

[(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve not more than one percent, which shall be used—

[(A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

[(B) for fiscal years 1998 through 2001, to carry out the competition described in paragraph (2), except that the amount reserved to carry out that competition shall not exceed the amount reserved for fiscal year 1996 for the competition under part B of this Act described under the heading "SPECIAL EDUCATION" in Public Law 104–134.

[(2) LIMITATION FOR FREELY ASSOCIATED STATES.—

[(A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (1)(B) to award grants, on a competitive basis, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States to carry out the purposes of this part.

[(B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii. Those recommendations shall be made by experts in the field of special education and related services.

[(C) ASSISTANCE REQUIREMENTS.—Any freely associated State that wishes to receive funds under this part shall include, in its application for assistance—

[(i) information demonstrating that it will meet all conditions that apply to States under this part;

[(ii) an assurance that, notwithstanding any other provision of this part, it will use those funds only for the direct provision of special education and related

services to children with disabilities and to enhance its capacity to make a free appropriate public education available to all children with disabilities;

[(iii) the identity of the source and amount of funds, in addition to funds under this part, that it will make available to ensure that a free appropriate public education is available to all children with disabilities within its jurisdiction; and

[(iv) such other information and assurances as the Secretary may require.

[(D) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the freely associated States shall not receive any funds under this part for any program year that begins after September 30, 2001.

[(E) ADMINISTRATIVE COSTS.—The Secretary may provide not more than five percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

[(3) LIMITATION.—An outlying area is not eligible for a competitive award under paragraph (2) unless it receives assistance under paragraph (1)(A).

[(4) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas or to the freely associated States under this section.

[(5) ELIGIBILITY FOR DISCRETIONARY PROGRAMS.—The freely associated States shall be eligible to receive assistance under subpart 2 of part D of this Act until September 30, 2001.

[(6) DEFINITION.—As used in this subsection, the term "freely associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

[(c) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (i).

[(d) ALLOCATIONS TO STATES.—

[(1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), and for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or subsection (e), as the case may be.

[(2) INTERIM FORMULA.—Except as provided in subsection (e), the Secretary shall allocate the amount described in paragraph (1) among the States in accordance with section 611(a)(3), (4), and (5) and (b)(1), (2), and (3) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997, except that the determination of the number of children with disabilities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.

[(e) PERMANENT FORMULA.—

[(1) ESTABLISHMENT OF BASE YEAR.—The Secretary shall allocate the amount described in subsection (d)(1) among the States in accordance with this subsection for each fiscal year beginning with the first fiscal year for which the amount appropriated under subsection (j) is more than $4,924,672,200.

[(2) USE OF BASE YEAR.—

[(A) DEFINITION.—As used in this subsection, the term "base year" means the fiscal year preceding the first fiscal year in which this subsection applies.

[(B) SPECIAL RULE FOR USE OF BASE YEAR AMOUNT.—If a State received any funds under this section for the base year on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's base year amount, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for the base year on the basis of those children.

[(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

[(A)(i) Except as provided in subparagraph (B), the Secretary shall—

[(I) allocate to each State the amount it received for the base year;

[(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

[(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

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

[(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

[(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

[(ii) No State's allocation shall be less than the greatest of—

[(I) the sum of—

[(aa) the amount it received for the base year; and

[(bb) one third of one percent of the amount by which the amount appropriated under sub-

section (j) exceeds the amount appropriated under this section for the base year;

[(II) the sum of—

[(aa) the amount it received for the preceding fiscal year; and

[(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

[(III) the sum of—

[(aa) the amount it received for the preceding fiscal year; and

[(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

[(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

[(I) the amount it received for the preceding fiscal year; and

[(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

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

[(A) If the amount available for allocations is greater than the amount allocated to the States for the base year, each State shall be allocated the sum of—

[(i) the amount it received for the base year; and

[(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over the base year bears to the total of all such increases for all States.

[(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for the base year, each State shall be allocated the amount it received for the base year.

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

[(f) STATE-LEVEL ACTIVITIES.—

[(1) GENERAL.—

[(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2) and (3).

[(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this

section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

[(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

[(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

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

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

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

[(2) STATE ADMINISTRATION.—

[(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

[(i) each State may use not more than twenty percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

[(ii) each outlying area may use up to five percent of the amount it receives under this section for any fiscal year or $35,000, whichever is greater.

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

[(3) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under paragraph (1) and does not use for administration under paragraph (2) for any of the following:

[(A) Support and direct services, including technical assistance and personnel development and training.

[(B) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.

[(C) To establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel.

[(D) To assist local educational agencies in meeting personnel shortages.

[(E) To develop a State Improvement Plan under subpart 1 of part D.

[(F) Activities at the State and local levels to meet the performance goals established by the State under section

612(a)(16) and to support implementation of the State Improvement Plan under subpart 1 of part D if the State receives funds under that subpart.

[(G) To supplement other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section. This system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under part C of this Act.

[(H) For subgrants to local educational agencies for the purposes described in paragraph (4)(A).

[(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR CAPACITY-BUILDING AND IMPROVEMENT.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following:

[(i) Direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.

[(ii) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under subpart 1 of part D.

[(iii) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources.

[(iv) Establishing, expanding, or implementing interagency agreements and arrangements between local educational agencies and other agencies or organizations concerning the provision of services to children with disabilities and their families.

[(v) Increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution.

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

[(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

[(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any,

from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

[(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

[(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

[(B) how those amounts will be allocated among the activities described in paragraphs (2) and (3) to meet State priorities based on input from local educational agencies; and

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

[(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

[(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 613, and to State agencies that received funds under section 614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 613, for use in accordance with this part.

[(2) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

[(A) INTERIM PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (d)(2), each State shall allocate funds under paragraph (1) in accordance with section 611(d) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997.

[(B) PERMANENT PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

[(i) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for the base year, as defined in subsection (e)(2)(A), if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

[(ii) ALLOCATION OF REMAINING FUNDS.—After making allocations under clause (i), the State shall—

[(I) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

[(II) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

[(3) FORMER CHAPTER 1 STATE AGENCIES.—

[(A) To the extent necessary, the State—

[(i) shall use funds that are available under subsection (f)(1)(A) to ensure that each State agency that received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 receives, from the combination of funds under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount equal to—

[(I) the number of children with disabilities, aged 6 through 21, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the limitation in subparagraph (B); multiplied by

[(II) the per-child amount provided under such subpart for fiscal year 1994; and

[(ii) may use those funds to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-supported school or program assisted under that subpart receives, from the combination of funds available under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount for each such child, aged 3 through 21 to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.

[(B) The number of children counted under subparagraph (A)(i)(I) shall not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

[(4) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

[(h) DEFINITIONS.—For the purpose of this section—

[(1) the term "average per-pupil expenditure in public elementary and secondary schools in the United States" means—

[(A) without regard to the source of funds—

[(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are

available) of all local educational agencies in the 50 States and the District of Columbia); plus

[(ii) any direct expenditures by the State for the operation of those agencies; divided by

[(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

[(2) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(i) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

[(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

[(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year.

[(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as "BIA") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

[(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

[(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

[(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

[(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

[(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the

adoption of the policies, programs, and procedures described in subparagraph (A);

[(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

[(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

[(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

[(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

[(A) IN GENERAL.—With funds appropriated under subsection (j), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

[(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

[(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated

under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

[(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

[(E) BIENNIAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

[(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

[(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

[(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(21), the Secretary of the Interior shall establish, not later than 6 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997, under the BIA, an advisory board composed of individuals involved in or concerned with the edu-

cation and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

[(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

[(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

[(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

[(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

[(E) provide assistance in the preparation of information required under paragraph (2)(D).

[(6) ANNUAL REPORTS.—

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

[(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

[(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated such sums as may be necessary.]

SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS TO STATES.—

(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

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

(A) the number of children with disabilities in the State who are receiving special education and related services—

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

(ii) aged 6 through 21; multiplied by

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

(3) LIMITATION.—Notwithstanding subparagraphs (A) and (B) of paragraph (2), the maximum amount of the grant a State may receive under this section for a fiscal year may not be based on the number of children ages 3 through 17, inclusive, in excess of 13.5 percent of the number of all children in that age range in the State.

(b) OUTLYING AREAS.—

(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than one percent, which shall be used to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21.

(2) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas under this section.

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

(d) ALLOCATIONS TO STATES.—

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

(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in the subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

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

(A)(i) Except as provided in subparagraph (B), the Secretary shall allocate—

(I) to each State the amount it received for fiscal year 1999;

(II) 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

(III) 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population

data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

(ii) No State's allocation shall be less than the greatest of—

(I) the sum of—

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

(bb) one-third of one percent of the amount by which the amount appropriated under subsection (i) exceeds the amount appropriated under this section for fiscal year 1999;

(II) the sum of—

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

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

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

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

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

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

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

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

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

(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount it received for fiscal year 1999.

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

(e) STATE-LEVEL ACTIVITIES.—

(1) IN GENERAL.—

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

(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

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

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

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

(2) STATE ADMINISTRATION.—

(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

(i) each State may use not more than 20 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

(ii) each outlying area may use up to 5 percent of the amount it receives under this section for any fiscal year or $35,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater.

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

(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES.—Each State may use not more than four percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.

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

(A) Support and direct services, including technical assistance and personnel development and training.

(B) Administrative costs of monitoring and complaint investigation.

(C) To establish and implement the mediation and voluntary binding arbitration processes required by sections 612(a)(17) and 615(e), including providing for the costs of mediators, arbitrators, and support personnel.

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

(E) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart.

(F) To support paperwork reduction activities, including expanding the appropriate use of technology in the IEP process under this part.

(G) To develop and maintain a comprehensive, coordinated, prereferral educational support system for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who are not enrolled in special education but who need additional academic and behavioral support to succeed in a general education environment.

(H) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

(I) For subgrants to local educational agencies for the purposes described in paragraph (5)(A).

(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular edu-

cation teachers, based on scientifically based research to improve educational instruction.

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

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

(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(6) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

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

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

(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (e) to local educational agencies, including public charter schools that operate as local educational agencies, in the State that have established their eligibility under section 613, for use in accordance with this part.

(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallo-

cate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

(g) DEFINITIONS.—For the purpose of this section—

(1) the term "average per-pupil expenditure in public elementary and secondary schools in the United States" means—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

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

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

(2) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year. Of the amount described in the preceding sentence—

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

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

(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as "BIA") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State

educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring, enforcement, and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

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

(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations

served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) ANNUAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior an annual report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Serv-

ice, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(22), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

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

(6) ANNUAL REPORTS.—

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

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

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

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

(2) $13,374,398,000 for fiscal year 2005;
(3) $15,746,302,000 for fiscal year 2006;
(4) $17,918,205,000 for fiscal year 2007;
(5) $20,090,109,000 for fiscal year 2008;
(6) $22,262,307,000 for fiscal year 2009;
(7) $25,198,603,000 for fiscal year 2010; and
(8) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.

SEC. 612. STATE ELIGIBILITY.

(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State [demonstrates to the satisfaction of] *reasonably demonstrates to* the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:

[(1) FREE APPROPRIATE PUBLIC EDUCATION.—

[(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

[(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children:

[(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

[(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility:

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

[(II) did not have an individualized education program under this part.

[(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

[(3) CHILD FIND.—

[(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

[(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and

related services is regarded as a child with a disability under this part.

[(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

[(5) LEAST RESTRICTIVE ENVIRONMENT.—

[(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

[(B) ADDITIONAL REQUIREMENT.—

[(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

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

[(6) PROCEDURAL SAFEGUARDS.—

[(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

[(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

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

[(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).

[(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent

with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

[(10) CHILDREN IN PRIVATE SCHOOLS.—

[(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

[(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

[(I) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

[(II) Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.

[(ii) CHILD-FIND REQUIREMENT.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.

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

[(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

[(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

[(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

[(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

[(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

[(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

[(I) if—

[(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

[(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

[(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

[(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

[(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if—

[(I) the parent is illiterate and cannot write in English;

[(II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child;

[(III) the school prevented the parent from providing such notice; or

[(IV) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I).

[(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

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

[(i) the requirements of this part are met; and

[(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

[(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

[(II) meet the educational standards of the State educational agency.

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

[(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.]

(1) FREE APPROPRIATE PUBLIC EDUCATION.—

(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

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

(II) did not have an individualized education program under this part.

(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

(3) CHILD FIND.—

(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

(5) LEAST RESTRICTIVE ENVIRONMENT.—

(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) ADDITIONAL REQUIREMENT.—

(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

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

(6) PROCEDURAL SAFEGUARDS.—

(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this Act will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

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

(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(d) (relating to the confidentiality of records and information).

(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

(10) CHILDREN IN PRIVATE SCHOOLS.—

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

(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

(II) In calculating the proportionate share of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in

clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

(III) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.

(V) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

(ii) CHILD-FIND REQUIREMENT.—

(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

(II) EQUITABLE PARTICIPATION.—The child-find process must be designed to ensure the equitable participation of parentally placed private school children and an accurate count of such children.

(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.

(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local education agency has met its obligations under clause (i).

(V) COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with representatives of children with disabilities parentally placed in private schools during the design and development of special education and related services for these children including—

(I) the child-find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

(II) the determination of the proportionate share of Federal funds available to serve parentally

placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

(III) the consultation process among the district, private school officials, and parents of parentally placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; and

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

(iv) COMPLIANCE.—

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

(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

(v) PROVISION OF SERVICES.—

(I) DIRECTLY OR THROUGH CONTRACTS.—An agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.

(vi) PUBLIC CONTROL OF FUNDS.—

(I) IN GENERAL.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and pur-

poses provided in this Act, and a public agency shall administer the funds and property.

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

(aa) by employees of a public agency; or

(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

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

(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

(I) if—

(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

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

(I) shall not be reduced or denied for failure to provide such notice if—

(aa) the school prevented the parent from providing such notice;

(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or

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

(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

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

(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

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

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

(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

(I) are under the general supervision of individuals in the State who are responsible for edu-

cational programs for children with disabilities; and

(II) meet the educational standards of the State educational agency.

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

(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

* * * * * * *

[(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

[(14) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State has in effect, consistent with the purposes of this Act and with section 635(a)(8), a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a State improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 653.

[(15) PERSONNEL STANDARDS.—

[(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

[(B) STANDARDS DESCRIBED.—Such standards shall—

[(i) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

[(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; and

[(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

[(C) POLICY.—In implementing this paragraph, a State may adopt a policy that includes a requirement that local educational agencies in the State make an ongoing good-faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subparagraph (B)(i), consistent with State law, and the steps described in subparagraph (B)(ii) within three years.

[(16) PERFORMANCE GOALS AND INDICATORS.—The State—

[(A) has established goals for the performance of children with disabilities in the State that—

[(i) will promote the purposes of this Act, as stated in section 601(d); and

[(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

[(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

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

[(D) based on its assessment of that progress, will revise its State improvement plan under subpart 1 of part D as may be needed to improve its performance, if the State receives assistance under that subpart.

[(17) PARTICIPATION IN ASSESSMENTS.—

[(A) IN GENERAL.—Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency—

[(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and

[(ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.

[(B) REPORTS.—The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

[(i) The number of children with disabilities participating in regular assessments.

[(ii) The number of those children participating in alternate assessments.

[(iii)(I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

[(II) Data relating to the performance of children described under subclause (I) shall be disaggregated—

[(aa) for assessments conducted after July 1, 1998; and

[(bb) for assessments conducted before July 1, 1998, if the State is required to disaggregate such data prior to July 1, 1998.

[(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

[(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

[(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

[(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

[(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

[(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

[(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

[(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

[(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a

natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

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

[(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

[(E) REGULATIONS.—

[(i) The Secretary shall, by regulation, establish procedures (including objective criteria and consideration of the results of compliance reviews of the State conducted by the Secretary) for determining whether to grant a waiver under subparagraph (C)(ii).

[(ii) The Secretary shall publish proposed regulations under clause (i) not later than 6 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997, and shall issue final regulations under clause (i) not later than 1 year after such date of enactment.

[(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

[(21) STATE ADVISORY PANEL.—

[(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

[(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

[(i) parents of children with disabilities;

[(ii) individuals with disabilities;

[(iii) teachers;

[(iv) representatives of institutions of higher education that prepare special education and related services personnel;

[(v) State and local education officials;

[(vi) administrators of programs for children with disabilities;

[(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

[(viii) representatives of private schools and public charter schools;

[(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

[(x) representatives from the State juvenile and adult corrections agencies.

[(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

[(D) DUTIES.—The advisory panel shall—

[(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

[(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

[(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

[(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

[(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

[(22) SUSPENSION AND EXPULSION RATES.—

[(A) IN GENERAL.—The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

[(i) among local educational agencies in the State; or

[(ii) compared to such rates for nondisabled children within such agencies.

[(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.]

(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

(14) PERSONNEL STANDARDS.—

(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

(B) STANDARDS DESCRIBED.—Such standards shall—

(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;

(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and

(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

(C) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT.—The State educational agency encourages the development and use of research-based innovative strategies, such as strategies using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that—

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

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

(15) PERFORMANCE GOALS AND INDICATORS.—The State—

(A) has established goals for the performance of children with disabilities in the State that—

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

(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

(iii) address dropout rates, as well as such other factors as the State may determine; and

(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and

(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabil-

ities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.

(16) PARTICIPATION IN ASSESSMENTS.—

(A) IN GENERAL.—(i) All children with disabilities are included in all general State and district-wide assessment programs, including assessments described under title I of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, where necessary and as indicated in their respective individualized education programs.

(ii) The State (or, in the case of a district-wide assessment, the local educational agency) has developed and implemented guidelines for the provision of accommodations described in clause (i).

(iii) The State (or, in the case of a district-wide assessment the local educational agency)—

(I) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under clause (i); and

(II) conducts those alternate assessments.

(B) REPORTS.—The State educational agency (or, in the case of a district-wide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

(ii) The number of children with disabilities participating in alternate assessments.

(iii) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information would not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

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

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

(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

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

(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

(21) STATE ADVISORY PANEL.—

(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities (ages birth through 26);

(ii) individuals with disabilities;

(iii) teachers;

(iv) representatives of institutions of higher education that prepare special education and related services personnel;

(v) State and local education officials;

(vi) administrators of programs for children with disabilities;

(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(viii) representatives of private schools and public charter schools;

(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

(x) representatives from the State juvenile and adult corrections agencies.

(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities ages birth through 26.

(D) DUTIES.—The advisory panel shall—

(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

(22) SUSPENSION AND EXPULSION RATES.—

(A) IN GENERAL.—The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in

the rate of long-term suspensions and expulsions of children with disabilities—

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

(ii) compared to such rates for nondisabled children within such agencies.

(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.

(23) INSTRUCTIONAL MATERIALS.—

(A) IN GENERAL.—The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

(C) DEFINITION.—For purposes of this paragraph, the term "instructional materials" means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom.

(24) OVERIDENTIFICATION AND DISPROPORTIONALITY.—The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to prevent the overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3).

(25) PROHIBITION ON PSYCHOTROPIC MEDICATION.—The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.

[(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State edu-

cational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

[(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

[(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).

[(c) EXCEPTION FOR PRIOR STATE PLANS.—

[(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

[(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

[(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.

[(d) APPROVAL BY THE SECRETARY.—

[(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

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

[(A) with reasonable notice; and

[(B) with an opportunity for a hearing.

[(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.]

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

(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).

(c) EXCEPTION FOR PRIOR STATE PLANS.—

(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.

(d) APPROVAL BY THE SECRETARY.—

(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

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

(A) with reasonable notice; and

(B) with an opportunity for a hearing.

(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.

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[SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

[(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency demonstrates to the satisfaction of the State educational agency that it meets each of the following conditions:

[(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

[(2) USE OF AMOUNTS.—

[(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

[(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

[(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

[(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

[(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

[(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

[(ii) a decrease in the enrollment of children with disabilities;

[(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

[(I) has left the jurisdiction of the agency;

[(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

[(III) no longer needs such program of special education; or

[(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

[(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

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

[(ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the requirements of this part, the State educational agency may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal

year, only if it is authorized to do so by the State constitution or a State statute.

[(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

[(i) the number of children with disabilities participating in the schoolwide program; multiplied by

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

[(II) the number of children with disabilities in the jurisdiction of that agency.

[(3) PERSONNEL DEVELOPMENT.—The local educational agency—

[(A) shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 653(c)(3)(D); and

[(B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 612(a)(14).

[(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

[(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

[(B) INTEGRATED AND COORDINATED SERVICES SYSTEM.—To develop and implement a fully integrated and coordinated services system in accordance with subsection (f).

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

[(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and

[(B) provides funds under this part to those schools in the same manner as it provides those funds to its other schools.

[(6) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (16) and (17) of section 612(a),

information relating to the performance of children with disabilities participating in programs carried out under this part.

[(7) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

[(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

[(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

[(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

[(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

[(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

[(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

[(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

[(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

[(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

[(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

[(1) JOINT ESTABLISHMENT.—

[(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

[(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

[(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(g) if such agencies were eligible for such payments.

[(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

[(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

[(B) be jointly responsible for implementing programs that receive assistance under this part.

[(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

[(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

[(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

[(ii) be carried out only by that educational service agency.

[(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

[(f) COORDINATED SERVICES SYSTEM.—

[(1) IN GENERAL.—A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.

[(2) ACTIVITIES.—In implementing a coordinated services system under this subsection, a local educational agency may carry out activities that include—

[(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;

[(B) service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income);

[(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this Act; and

[(D) interagency personnel development for individuals working on coordinated services.

[(g) SCHOOL-BASED IMPROVEMENT PLAN.—

[(1) IN GENERAL.—Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 651(b) and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) in that public school.

[(2) AUTHORITY.—

[(A) IN GENERAL.—A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.

[(B) RESPONSIBILITY OF LOCAL EDUCATIONAL AGENCY.—If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.

[(3) PLAN REQUIREMENTS.—A school-based improvement plan described in paragraph (1) shall—

[(A) be designed to be consistent with the purposes described in section 651(b) and to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4), who attend the school for which the plan is designed and implemented;

[(B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with 2paragraph (4)(B);

[(C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and

[(D) ensure that all children with disabilities receive the services described in the individualized education programs of such children.

[(4) RESPONSIBILITIES OF THE LOCAL EDUCATIONAL AGENCY.—A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall—

[(A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan;

[(B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B);

[(C) establish—

[(i) criteria that shall be used by such local educational agency in the selection of an eligible school under subparagraph (A);

[(ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum—

[(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;

[(II) special education and general education teachers of such public school;

[(III) special education and general education administrators, or the designee of such administrators, of such public school; and

[(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and

[(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this part to carry out this subsection;

[(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;

[(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such manner, and accompanied by such information as such local educational agency shall reasonably require; and

[(F) establish procedures for approval by such local educational agency of a school-based improvement plan designed under this subsection.

[(5) LIMITATION.—A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.

[(6) ADDITIONAL REQUIREMENTS.—

[(A) PARENTAL INVOLVEMENT.—In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.

[(B) PLAN APPROVAL.—A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if—

[(i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and

[(ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan.

[(7) EXTENSION OF PLAN.—If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.

[(h) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

[(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

[(A) has not provided the information needed to establish the eligibility of such agency under this section;

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

[(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

[(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

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

[(i) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(g) shall demonstrate to the satisfaction of the State educational agency that—

[(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

[(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

[(j) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

[SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

[(a) EVALUATIONS AND REEVALUATIONS.—

[(1) INITIAL EVALUATIONS.—

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

[(B) PROCEDURES.—Such initial evaluation shall consist of procedures—

[(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

[(ii) to determine the educational needs of such child.

[(C) PARENTAL CONSENT.—

[(i) IN GENERAL.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

[(ii) REFUSAL.—If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.

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

[(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and

[(B) in accordance with subsections (b) and (c).

[(b) EVALUATION PROCEDURES.—

[(1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

[(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

[(A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;

[(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

[(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

[(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

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

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

[(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

[(B) any standardized tests that are given to the child—

[(i) have been validated for the specific purpose for which they are used;

[(ii) are administered by trained and knowledgeable personnel; and

[(iii) are administered in accordance with any instructions provided by the producer of such tests;

[(C) the child is assessed in all areas of suspected disability; and

[(D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

[(4) DETERMINATION OF ELIGIBILITY.—Upon completion of administration of tests and other evaluation materials—

[(A) the determination of whether the child is a child with a disability as defined in section 602(3) shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

[(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

[(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency.

[(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

[(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

[(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and

[(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

[(i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability;

[(ii) the present levels of performance and educational needs of the child;

[(iii) whether the child needs special education and related services, or in the case of a reevaluation of a

child, whether the child continues to need special education and related services; and

[(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

[(2) SOURCE OF DATA.—The local educational agency shall administer such tests and other evaluation materials as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

[(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(C), prior to conducting any reevaluation of a child with a disability, except that such informed parent consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

[(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, the local educational agency—

[(A) shall notify the child's parents of—

[(i) that determination and the reasons for it; and

[(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability; and

[(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

[(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

[(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

[(A) INDIVIDUALIZED EDUCATION PROGRAM.—The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

[(i) a statement of the child's present levels of educational performance, including—

[(I) how the child's disability affects the child's involvement and progress in the general curriculum; or

[(II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

[(ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to—

[(I) meeting the child's needs that result from the child's disability to enable the child to be in-

volved in and progress in the general curriculum; and

[(II) meeting each of the child's other educational needs that result from the child's disability;

[(iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

[(I) to advance appropriately toward attaining the annual goals;

[(II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and

[(III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

[(iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);

[(v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and

[(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

[(aa) why that assessment is not appropriate for the child; and

[(bb) how the child will be assessed;

[(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;

[(vii)(I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

[(II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

[(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the

child on reaching the age of majority under section 615(m); and

[(viii) a statement of—

[(I) how the child's progress toward the annual goals described in clause (ii) will be measured; and

[(II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—

[(aa) their child's progress toward the annual goals described in clause (ii); and

[(bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

[(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term "individualized education program team" or "IEP Team" means a group of individuals composed of—

[(i) the parents of a child with a disability;

[(ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

[(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child;

[(iv) a representative of the local educational agency who—

[(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

[(II) is knowledgeable about the general curriculum; and

[(III) is knowledgeable about the availability of resources of the local educational agency;

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

[(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

[(vii) whenever appropriate, the child with a disability.

[(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

[(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

[(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the

school year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is—

[(i) consistent with State policy; and

[(ii) agreed to by the agency and the child's parents.

[(3) DEVELOPMENT OF IEP.—

[(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

[(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and

[(ii) the results of the initial evaluation or most recent evaluation of the child.

[(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

[(i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

[(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

[(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

[(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

[(v) consider whether the child requires assistive technology devices and services.

[(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).

[(4) REVIEW AND REVISION OF IEP.—

[(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

[(i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and

[(ii) revises the IEP as appropriate to address—

[(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

[(II) the results of any reevaluation conducted under this section;

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

[(IV) the child's anticipated needs; or

[(V) other matters.

[(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.

[(5) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

[(6) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

[(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

[(i) The requirements contained in section 612(a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments).

[(ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

[(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

[(e) CONSTRUCTION.—Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

[(f) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.]

SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency reasonably demonstrates to the State educational agency that it meets each of the following conditions:

(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

(2) USE OF AMOUNTS.—

(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

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

(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

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

(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

(I) has left the jurisdiction of the agency;

(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

(III) no longer needs such program of special education; or

(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

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

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

(ii) If a local educational agency chooses to use the authority under clause (i), then the agency shall use those local funds to provide additional funding for programs under the Elementary and Secondary Education Act of 1965, including, but not limited to, programs that address student achievement, comprehensive school reform, literacy, teacher quality and professional development, school safety, before- and after- school learning opportunities.

(iii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a), the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for that fiscal year, but only if it is authorized to do so by the State constitution or a State statute.

(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

(i) the number of children with disabilities participating in the schoolwide program; multiplied by

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

(II) the number of children with disabilities in the jurisdiction of that agency.

(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612 of this Act and section 1119 of the Elementary and Secondary Education Act of 1965.

(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized

education program of the child, even if one or more non-disabled children benefit from such services.

(B) PREREFERRAL SERVICES.—To develop and implement a system of comprehensive coordinated prereferral education support services in accordance with subsection (f).

(C) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium of which the local educational agency is a part, to pay for high cost special education and related services.

(D) CASE MANAGEMENT AND ADMINISTRATION.—To purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.

(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNATED FOR IMPROVEMENT.—For the reasonable additional expenses (as determined by the local educational agency) of any necessary accommodations to allow children with disabilities who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) to be provided supplemental educational services under section 1116(e) of such Act on an equitable basis.

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

(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing supplemental and related services on site at the charter school when the local educational agency has a policy or practice of providing those services on site to its other schools; and

(B) provides funds under this part to those schools on the same basis as it provides those funds to its other public schools (including, at the option of such agency, proportional distribution based on relative enrollment of children with disabilities at such charter schools), and at the same time as such agency distributes other Federal funds to those schools, consistent with the State's charter law.

(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using

the national instructional materials accessibility standard described in section 612(a)(23).

(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational

agency or State agency with reasonable notice and an opportunity for a hearing.

(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

(1) JOINT ESTABLISHMENT.—

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

(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

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

(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

(B) be jointly responsible for implementing programs that receive assistance under this part.

(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

(ii) be carried out only by that educational service agency.

(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

(f) PREREFERRAL SERVICES.—

(1) IN GENERAL.—A local educational agency may use not more than 15 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

(2) ACTIVITIES.—In implementing comprehensive coordinated prereferral educational services under this subsection, a local educational agency may carry out the following activities:

(A) Professional development (which may be provided by entities other than local educational agencies) for teachers to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction and speech therapy.

(B) Providing educational evaluations, services, and supports, including scientifically based literacy instruction.

(C) Providing behavioral evaluations and services and supports, including positive behavioral interventions and supports.

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

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

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

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

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

(A) IN GENERAL.—Comprehensive coordinated prereferral educational support services provided under this subsection

may be aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965, such as the Reading First program under subpart 1 of part B of title I of such Act, the Early Reading First program under subpart 2 of part B of title I of such Act, reading and math supports under part A of title I of such Act, and behavior intervention supports, that improve results for children with disabilities.

(B) MAINTENANCE OF EFFORT.—Funds used under this section shall be used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965.

(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

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

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

(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

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

(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children.

The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS.—

(1) INITIAL EVALUATIONS.—

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

(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, a State educational agency, other State agency as appropriate, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

(C) PROCEDURES.—Such initial evaluation shall consist of procedures—

(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

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

(D) PARENTAL CONSENT.—

(i) IN GENERAL.—

(I) CONSENT FOR INITIAL EVALUATION.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

(II) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

(ii) ABSENCE OF CONSENT.—

(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child through the procedures de-

scribed in section 615, except to the extent inconsistent with State law relating to such parental consent.

(II) FOR SERVICES.—If the parent of such child does not provide consent for services under clause (i)(II), or the parent fails to respond to a request to provide the consent, the local educational agency shall not provide special education and related services to the child through the procedures described in section 615.

(III) EFFECT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under subclause (I), or for which there is an absence of consent for services under subclause (II)—

(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

(bb) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.

(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(2) REEVALUATIONS.—

(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

(i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or

(ii) if the child's parent or teacher requests a reevaluation.

(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—

(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and

(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

(b) EVALUATION PROCEDURES.—

(1) NOTICE.—The local educational agency shall provide notice to the parent of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—

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

(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;

(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

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

(A) assessments and other evaluation measures used to assess a child under this section—

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

(ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate academic and developmental data;

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

(iv) are administered by trained and knowledgeable personnel; and

(v) are administered in accordance with any instructions provided by the producer of such tests;

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

(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

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

(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);

(B) lack of instruction in math; or

(C) limited English proficiency.

(6) SPECIFIC LEARNING DISABILITIES.—

(A) IN GENERAL.—Notwithstanding section 607 of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process which determines if a child responds to scientific, research-based intervention.

(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments, and classroom-based observations, and teacher and related services providers observations; and

(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

(i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

(ii) the present levels of academic achievement and related developmental needs of the child;

(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

(2) SOURCE OF DATA.—The local educational agency shall administer such assessments and other evaluation measures as

may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

(A) shall notify the child's parents of—

(i) that determination and the reasons for it; and

(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section prior to graduation, and before determining that the child is no longer a child with a disability, only in instances where the IEP Team is not in agreement regarding the change in eligibility.

(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

(A) INDIVIDUALIZED EDUCATION PROGRAM.—

(i) IN GENERAL.—The term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

(I) a statement of the child's present levels of academic achievement, including—

(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

(cc) until the beginning of the 2005–2006 school year, a description of benchmarks or short-term objectives, except in the case of children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives shall continue to be included;

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

(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(bb) meet the child's other educational needs that result from the child's disability;

(III) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(aa) to advance appropriately toward attaining the annual goals;

(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

(IV) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (III)(cc);

(V)(aa) a statement of any individual appropriate accommodations in the administration of State or districtwide assessments of student achievement that are necessary to measure the academic achievement of the child consistent with section 612(a)(16)(A)(ii); and

(bb) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

(AA) why that assessment is not appropriate for the child; and

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

(VI) the projected date for the beginning of the services and modifications described in subclause (III), and the anticipated frequency, location, and duration of those services and modifications;

(VII)(aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

(bb) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, includ-

ing, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

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

(VIII) a statement of—

(aa) how the child's progress toward the annual goals described in subclause (II) will be measured; and

(bb) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of the sufficiency of their child's progress toward the annual goals described in subclause (II).

(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require—

(I) that additional information be included in a child's IEP beyond what is required in this subsection; and

(II) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term "individualized education program team" or "IEP Team" means a group of individuals composed of—

(i) the parents of a child with a disability;

(ii) a regular education teacher of such child, but such teacher shall not be required to attend a meeting or part of a meeting of the IEP Team involving issues not related to the child's participation in the regular education environment, nor shall multiple regular education teachers, if the child has more than one regular education teacher, be required to attend a meeting, or part of a meeting, of the IEP team;

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

(iv) a representative of the local educational agency who—

(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

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

(III) is knowledgeable about the availability of resources of the local educational agency;

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

(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

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

(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

(i) consistent with State policy; and

(ii) agreed to by the agency and the child's parents.

(3) DEVELOPMENT OF IEP.—

(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

(i) the results of the initial evaluation or most recent evaluation of the child;

(ii) the academic and developmental needs of the child;

(iii) the strengths of the child; and

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

(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication

needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

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

(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (1)(B)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).

(D) IEP TEAM ATTENDANCE.—The parent of a child with a disability and the local educational agency may jointly excuse any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member's attendance is not necessary. The IEP Team shall obtain the member's input prior to an IEP meeting from which the member is excused.

(E) AGREEMENT ON MEETING.—In making changes to a child's IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop a written document to amend or modify the child's current IEP.

(F) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of IEP Team meetings for a child.

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

(4) REVIEW AND REVISION OF IEP.—

(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

(i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(ii) revises the IEP as appropriate to address—

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

(II) the results of any reevaluation conducted under this section;

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

(IV) the child's anticipated needs; or

(V) other matters.

(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team, shall, consistent with this section, participate in the review and revision of the IEP of the child.

(5) MULTI-YEAR IEP.—

(A) DEVELOPMENT.—The local educational agency may offer to the parent of a child with a disability the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to cover the natural transition points for the child. With the consent of the parent, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the appropriate multi-year period, which includes a statement of—

(i) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

(ii) measurable annual goals for determining progress toward meeting the goals described in clause (i).

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

(i) REQUIREMENT.—The IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP at each of the child's natural transition points.

(ii) STREAMLINED ANNUAL REVIEW PROCESS.—In years other than a child's natural transition points, the local educational agency shall ensure that the IEP Team—

(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and

(II) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.

(iii) COMPREHENSIVE REVIEW PROCESS.—If the IEP Team determines, on the basis of the review under clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team reviews the IEP under paragraph (4), within 30 calendar days.

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

(C) DEFINITION.—As used in this paragraph, the term "natural transition points" means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and

from high school grades to post-secondary activities, but in no case longer than 3 years.

(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

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

(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VII) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP team meetings and placement meetings pursuant to this section and 615, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

SEC. 615. PROCEDURAL SAFEGUARDS.

[(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.

[(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

[(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision

of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

[(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

[(3) written prior notice to the parents of the child whenever such agency—

[(A) proposes to initiate or change; or

[(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

[(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

[(5) an opportunity for mediation in accordance with subsection (e);

[(6) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child;

[(7) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

[(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and

[(B) that shall include—

[(i) the name of the child, the address of the residence of the child, and the name of the school the child is attending;

[(ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

[(iii) a proposed resolution of the problem to the extent known and available to the parents at the time; and

[(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).

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

[(1) a description of the action proposed or refused by the agency;

[(2) an explanation of why the agency proposes or refuses to take the action;

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

[(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

[(5) a description of any other factors that are relevant to the agency's proposal or refusal;

[(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

[(7) sources for parents to contact to obtain assistance in understanding the provisions of this part.

[(d) PROCEDURAL SAFEGUARDS NOTICE.—

[(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

[(A) upon initial referral for evaluation;

[(B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and

[(C) upon registration of a complaint under subsection (b)(6).

[(2) CONTENTS.—The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

[(A) independent educational evaluation;

[(B) prior written notice;

[(C) parental consent;

[(D) access to educational records;

[(E) opportunity to present complaints;

[(F) the child's placement during pendency of due process proceedings;

[(G) procedures for students who are subject to placement in an interim alternative educational setting;

[(H) requirements for unilateral placement by parents of children in private schools at public expense;

[(I) mediation;

[(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

[(K) State-level appeals (if applicable in that State);

[(L) civil actions; and

[(M) attorneys' fees.

[(e) MEDIATION.—

[(1) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through a mediation process which, at a minimum, shall be available whenever a hearing is requested under subsection (f) or (k).

[(2) REQUIREMENTS.—Such procedures shall meet the following requirements:

[(A) The procedures shall ensure that the mediation process—

[(i) is voluntary on the part of the parties;

[(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

[(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

[(B) A local educational agency or a State agency may establish procedures to require parents who choose not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

[(i) a parent training and information center or community parent resource center in the State established under section 682 or 683; or

[(ii) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

[(C) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

[(D) The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

[(E) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

[(F) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

[(G) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

[(f) IMPARTIAL DUE PROCESS HEARING.—

[(1) IN GENERAL.—Whenever a complaint has been received under subsection (b)(6) or (k) of this section, the parents involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

[(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

[(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

[(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from

introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

[(3) LIMITATION ON CONDUCT OF HEARING.—A hearing conducted pursuant to paragraph (1) may not be conducted by an employee of the State educational agency or the local educational agency involved in the education or care of the child.

[(g) APPEAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.

[(h) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

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

[(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

[(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

[(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 612(a)(21)).]

(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.

(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain as appropriate an independent educational evaluation of the child;

(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

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

(A) proposes to initiate or change; or

(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

(5) an opportunity for mediation and voluntary binding arbitration, in accordance with subsection (e);

(6) an opportunity to present complaints—

(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

(B) which set forth a violation that occurred not more than one year before the complaint is filed;

(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

(i) to the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and

(ii) that shall include—

(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;

(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(III) a proposed resolution of the problem to the extent known and available to the parents at the time;

(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and

(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).

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

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

(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the

means by which a copy of a description of the procedural safeguards can be obtained; and

(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.

(d) PROCEDURAL SAFEGUARDS NOTICE.—

(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

(A) upon initial referral or parental request for evaluation;

(B) annually, at the beginning of the school year; and

(C) upon written request by a parent.

(2) CONTENTS.—The procedural safeguards notice shall include a description of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

(A) independent educational evaluation;

(B) prior written notice;

(C) parental consent;

(D) access to educational records;

(E) opportunity to present complaints;

(F) the child's placement during pendency of due process proceedings;

(G) procedures for students who are subject to placement in an interim alternative educational setting;

(H) requirements for unilateral placement by parents of children in private schools at public expense;

(I) mediation, early dispute resolution, and voluntary binding arbitration;

(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

(K) civil actions; and

(L) attorneys' fees.

(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—

(1) MEDIATION.—

(A) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

(i) The procedures shall ensure that the mediation process—

(I) is voluntary on the part of the parties;

(II) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

(III) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

(I) a parent training and information center in the State established under section 672; or

(II) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

(iii) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).

(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

(2) VOLUNTARY BINDING ARBITRATION.—

(A) IN GENERAL.—A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j).

(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

(i) The procedures shall ensure that the voluntary binding arbitration process—

(I) is voluntarily and knowingly agreed to in writing by the parties; and

(II) is conducted by a qualified and impartial arbitrator.

(ii) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final,

unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator.

(iii) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(iv) The arbitration shall be conducted according to State law on arbitration or, if there is no such applicable State law, in a manner consistent with the Revised Uniform Arbitration Act.

(v) The voluntary binding arbitration shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(f) IMPARTIAL DUE PROCESS HEARING.—

(1) IN GENERAL.—

(A) ACCESS TO HEARING.—Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.

(B) RESOLUTION SESSION.—

(i) IN GENERAL.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents—

(I) within 15 days of receiving notice of the parents' complaint; and

(II) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint;

unless the parents and the local educational agency agree in writing to waive such meeting.

(ii) DUE PROCESS HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).

(iii) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (i) shall not be considered—

(I) a meeting convened as a result of an administrative hearing or judicial action; or

(II) an administrative hearing or judicial action for purposes of subsection (h)(3).

(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) LIMITATION ON HEARING.—

(A) HEARING OFFICER.—A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—

(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

(ii) any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues at the due process hearing that were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees otherwise.

(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination of whether or not the child received a free appropriate public education.

(g) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (j) shall be accorded—

(1) the right to be represented by counsel and by non-attorney advocates and to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(d)) (relating to the confidentiality of data, information, and records).

[(i)**]** *(h)* ADMINISTRATIVE PROCEDURES.—

(1) **[**IN GENERAL.—

[(A) DECISION MADE IN HEARING.—A decision made in a hearing**]** *IN GENERAL.—A decision made in a hearing* conducted pursuant to subsection (f) or **[**(k)**]** *(j)* shall be final, except that any party involved in such hearing may appeal such decision under the provisions of **[**subsection (g) and**]** paragraph (2) of this subsection.

[(B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2) of this subsection.**]**

(2) RIGHT TO BRING CIVIL ACTION.—

(A) IN GENERAL.—Any party aggrieved by the findings and decision made under **[**subsection (f) or (k) who does not have the right to an appeal under subsection (g)**]** *subsection (f) or (j)*, and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented

pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

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(3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—

(A) * * *

* * * * * * *

[(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.]

(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—

(i) IN GENERAL.—Fees awarded under this paragraph shall be based on rates determined by the Governor of the State (or other appropriate State official) in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(ii) NOTICE.—The Governor of the State (or other appropriate State official) shall make available to the public on an annual basis the rates described in clause (i).

* * * * * * *

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

[(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

[(1) AUTHORITY OF SCHOOL PERSONNEL.—

[(A) School personnel under this section may order a change in the placement of a child with a disability—

[(i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and

[(ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if—

[(I) the child carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency; or

[(II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.

[(B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)—

[(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or

[(ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.

[(2) AUTHORITY OF HEARING OFFICER.—A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer—

[(A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;

[(B) considers the appropriateness of the child's current placement;

[(C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

[(D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B).

[(3) DETERMINATION OF SETTING.—

[(A) IN GENERAL.—The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team.

[(B) ADDITIONAL REQUIREMENTS.—Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall—

[(i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

[(ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur.

[(4) MANIFESTATION DETERMINATION REVIEW.—

[(A) IN GENERAL.—If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involv-

ing a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children—

[(i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and

[(ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

[(B) INDIVIDUALS TO CARRY OUT REVIEW.—A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel.

[(C) CONDUCT OF REVIEW.—In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team—

[(i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including—

[(I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child;

[(II) observations of the child; and

[(III) the child's IEP and placement; and

[(ii) then determines that—

[(I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;

[(II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

[(III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

[(5) DETERMINATION THAT BEHAVIOR WAS NOT MANIFESTATION OF DISABILITY.—

[(A) IN GENERAL.—If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 612(a)(1).

[(B) ADDITIONAL REQUIREMENT.—If the public agency initiates disciplinary procedures applicable to all children,

the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

[(6) PARENT APPEAL.—

[(A) IN GENERAL.—

[(i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.

[(ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent.

[(B) REVIEW OF DECISION.—

[(i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C).

[(ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph (2).

[(7) PLACEMENT DURING APPEALS.—

[(A) IN GENERAL.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

[(B) CURRENT PLACEMENT.—If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C).

[(C) EXPEDITED HEARING.—

[(i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing.

[(ii) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the

hearing officer shall apply the standards set out in paragraph (2).

[(8) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

[(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

[(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if—

[(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

[(ii) the behavior or performance of the child demonstrates the need for such services;

[(iii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

[(iv) the teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

[(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

[(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

[(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

[(9) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

[(A) Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

[(B) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

[(10) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

[(A) CONTROLLED SUBSTANCE.—The term "controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

[(B) ILLEGAL DRUG.—The term "illegal drug"—

[(i) means a controlled substance; but

[(ii) does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

[(C) SUBSTANTIAL EVIDENCE.—The term "substantial evidence" means beyond a preponderance of the evidence.

[(D) WEAPON.—The term "weapon" has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.]

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

(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

(1) AUTHORITY OF SCHOOL PERSONNEL.—

(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities).

(B) ADDITIONAL AUTHORITY.—Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim al-

ternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the local educational agency.

(C) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) shall—

(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.

(2) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.

(3) PARENT APPEAL.—

(A) IN GENERAL.—If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.

(B) AUTHORITY OF HEARING OFFICER.—If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including duration of the punishment, the hearing officer may determine whether the decision regarding such action was appropriate.

(4) PLACEMENT DURING APPEALS.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with

this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

(ii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern in writing about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

(A) IN GENERAL.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(B) TRANSMISSION OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records

of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

[(l)] *(k)* RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.

[(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

[(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

[(A) the public agency shall provide any notice required by this section to both the individual and the parents;

[(B) all other rights accorded to parents under this part transfer to the child;

[(C) the agency shall notify the individual and the parents of the transfer of rights; and

[(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

[(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.]

(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

(A) the public agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this part transfer to the child;

(C) the agency shall notify the individual and the parents of the transfer of rights; and

(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent

with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

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[SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.]

SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

(a) FEDERAL MONITORING.—

(1) IN GENERAL.—The Secretary shall monitor implementation of this Act.

(2) FOCUSED MONITORING.—The primary focus of Federal monitoring activities shall be to improve educational results for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

(b) INDICATORS.—

(1) REQUIRED INDICATORS.—The Secretary shall examine relevant information and data related to States' progress on improving educational results for children with disabilities by reviewing—

(A) achievement results of children with disabilities on State or district assessments, including children with disabilities taking State or district assessments with appropriate accommodations;

(B) achievement results of children with disabilities on State or district alternate assessments;

(C) graduation rates of children with disabilities and graduation rates of children with disabilities as compared to graduation rates of nondisabled children; and

(D) dropout rates for children with disabilities and dropout rates of children with disabilities as compared to dropout rates of nondisabled children.

(2) PERMISSIVE INDICATORS.—The Secretary also may establish other priorities for review of relevant information and data, including data provided by States under section 618, and also including the following:

(A) PRIORITIES FOR THIS PART.—The Secretary may give priority to monitoring on the following areas under this part:

(i) Provision of educational services in the least restrictive environment, including—

(I) education of children with disabilities with nondisabled peers to the maximum extent appropriate;

(II) provision of appropriate special education and related services;

(III) access to the general curriculum with appropriate accommodations;

(IV) provision of appropriate services to students whose behavior impedes learning; and

(V) participation and performance of children with disabilities on State and local assessments, including alternate assessments.

(ii) Secondary transition, including the extent to which youth exiting special education are prepared for post-secondary education, employment, and adult life, and are participants in appropriate transition planning while in school.

(iii) State exercise of general supervisory authority, including effective monitoring and use of complaint resolution, mediation, and voluntary binding arbitration.

(B) PRIORITIES FOR PART C.—The Secretary may give priority to monitoring on the following areas under part C:

(i) Child find and public awareness to support the identification, evaluation and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral.

(ii) Provision of early intervention services in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services in natural environments to meet the needs of individual children.

(iii) Effective early childhood transition to services under this part.

(iv) State exercise of general supervisory authority, including—

(I) effective monitoring and use of other mechanisms such as complaint resolution;

(II) implementation of mediation and voluntary binding arbitration; and

(III) coordination of parent and child protections.

(3) DATA COLLECTION AND ANALYSIS.—The Secretary shall review the data collection and analysis capacity of States to ensure that data and information is collected, analyzed, and accurately reported to the Secretary. The Secretary may provide technical assistance to improve the capacity of States to meet data requirements.

(c) ADDITIONAL PRIORITIES.—

(1) IN GENERAL.—The Secretary may develop additional priorities for monitoring the effective implementation of this Act.

(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on any additional priority proposed under this part or part C.

(3) DATE OF ENFORCEMENT.—The Secretary may not begin to enforce a new priority until one year from the date of publication of the priority in the Federal Register as a final rule.

(d) COMPLIANCE.—

(1) IN GENERAL.—The Secretary shall review State data to determine whether the State is in compliance with the provisions of this Act.

(2) LACK OF PROGRESS.—If after examining data, as provided in section (b) or (c), the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary shall take one or more of the following actions:

(A) Advise the State of available sources of technical assistance that may help the State address the lack of progress, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies. Such technical assistance may include—

(i) the provision of advice by experts to address the areas of noncompliance, including explicit plans for ensuring compliance within a specified period of time;

(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) designating and using distinguished superintendents, principals, special education administrators, regular education teachers, and special education teachers to provide advice, technical assistance, and support; and

(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

(B) Direct the use of State level funds for technical assistance on the area or areas of unsatisfactory performance.

(C) Each year withhold at least 20 but no more than 50 percent of the State's funds under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

(3) SUBSTANTIAL NON-COMPLIANCE.—

(A) INITIAL DETERMINATION.—When the Secretary determines that a State is not in substantial compliance with any provision of this part, the Secretary shall take one or more of the following actions:

(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant.

(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iv) Recovery of funds under section 452 of the General Education Provisions Act.

(v)(I) Withholding of payments under subsection (e).

(II) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(B) CONTINUED NON-COMPLIANCE.—

(i) SECRETARIAL ACTION.—If the Secretary has imposed special conditions on a grant under subparagraph (A)(ii) for substantially the same compliance problems for three consecutive years, and at the end of the third year the State has not demonstrated that the violation has been corrected to the satisfaction of the Secretary, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in clauses (iii) through (v) of subparagraph (A).

(ii) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.

[(a)**]** *(e)* WITHHOLDING OF PAYMENTS.—

(1) * * *

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[(b)**]** *(f)* JUDICIAL REVIEW.—

(1) * * *

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[(c)**]** *(g)* DIVIDED STATE AGENCY RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except—

(1) * * *

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[SEC. 617. ADMINISTRATION.

[(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

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

[(A) the education of children with disabilities; and

[(B) carrying out this part; and

[(2) provide short-term training programs and institutes.

[(b) RULES AND REGULATIONS.—In carrying out the provisions of this part, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act.

[(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

[(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618, 661, and 673 (or their predecessor authorities through October 1, 1997) without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

[SEC. 618. PROGRAM INFORMATION.

[(a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

[(1)(A) on—

[(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

[(ii) the number of children with disabilities, by race and ethnicity, who are receiving early intervention services;

[(iii) the number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

[(iv) the number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

[(v) the number of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

[(vi) the number of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and

[(vii)(I) the number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of section 615(k)(1), are removed to an interim alternative educational setting;

[(II) the acts or items precipitating those removals; and

[(III) the number of children with disabilities who are subject to long-term suspensions or expulsions; and

[(B) on the number of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as described in section 632), and who are receiving early intervention services under part C; and

[(2) on any other information that may be required by the Secretary.

[(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

[(c) DISPROPORTIONALITY.—

[(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to—

[(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3); and

[(B) the placement in particular educational settings of such children.

[(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.

[SEC. 619. PRESCHOOL GRANTS.

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

[(1) to children with disabilities aged 3 through 5, inclusive; and

[(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

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

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

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

[(c) ALLOCATIONS TO STATES.—

[(1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or (3), as the case may be.

[(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the

preceding fiscal year, those allocations shall be calculated as follows:

[(A)(i) Except as provided in subparagraph (B), the Secretary shall—

[(I) allocate to each State the amount it received for fiscal year 1997;

[(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

[(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

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

[(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

[(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

[(ii) No State's allocation shall be less than the greatest of—

[(I) the sum of—

[(aa) the amount it received for fiscal year 1997; and

[(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

[(II) the sum of—

[(aa) the amount it received for the preceding fiscal year; and

[(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

[(III) the sum of—

[(aa) the amount it received for the preceding fiscal year; and

[(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

[(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

[(I) the amount it received for the preceding fiscal year; and

[(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

[(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount al-

located to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

[(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

[(i) the amount it received for fiscal year 1997; and

[(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

[(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

[(4) OUTLYING AREAS.—The Secretary shall increase the fiscal year 1998 allotment of each outlying area under section 611 by at least the amount that that area received under this section for fiscal year 1997.

[(d) RESERVATION FOR STATE ACTIVITIES.—

[(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

[(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

[(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

[(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

[(e) STATE ADMINISTRATION.—

[(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

[(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

[(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

[(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

[(2) for direct services for children eligible for services under this section;

[(3) to develop a State improvement plan under subpart 1 of part D;

[(4) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State improvement plan under subpart 1 of part D if the State receives funds under that subpart; or

[(5) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

[(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

[(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

[(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

[(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

[(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

[(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

[(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

[(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

[(i) DEFINITION.—For the purpose of this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.]

SEC. 617. ADMINISTRATION.

(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

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

(A) the education of children with disabilities; and

(B) carrying out this part; and

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

(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction.

(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

(e) PILOT PROGRAM.—The Secretary is authorized to grant waivers of paperwork requirements under this part for a period of time not to exceed 4 years with respect to not more than 10 States based on proposals submitted by States for addressing reduction of paperwork and non-instructional time spent fulfilling statutory and regulatory requirements.

(f) REPORT.—The Secretary shall include in the annual report to Congress under section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e)—

(1) in reducing the paperwork burden on teachers, administrators, and related services providers and non-instructional time spent by teachers in complying with this part, including any specific recommendations for broader implementation; and

(2) in enhancing longer-term educational planning, improving positive outcomes for children with disabilities, promoting collaboration between IEP Team members, and ensuring satisfaction of family members, including any specific recommendations for broader implementation.

(g) MODEL FORMS.—Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate wide-

ly to States, local educational agencies, and parent training and information centers—

(1) a model individualized education program form;

(2) a model form for the procedural safeguards notice described in section 615(d); and

(3) a model form for the prior written notice described in section 615(b)(3);

that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements.

SEC. 618. PROGRAM INFORMATION.

(a) IN GENERAL.—Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

(1)(A) on—

(i) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

(v) the number and percentage of children with disabilities, by race and ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

(vii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

(viii)(I) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;

(II) the acts or items precipitating those removals;

(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

(ix) the number of complaints resolved through voluntary binding arbitration; and

(x) the number of mediations held and the number of settlement agreements reached through mediation;

(B) on the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and

(C) on the number of children served with funds under section 613(f); and

(2) on any other information that may be required by the Secretary.

(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

(c) DISPROPORTIONALITY.—

(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be—

(A) shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act;

(B) shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

(C) shall require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

SEC. 619. PRESCHOOL GRANTS.

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

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

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

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

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

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—The Secretary shall allocate funds among the States in accordance with paragraph (2) or (3), as appropriate.

(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A)(i) Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount it received for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

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

(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

(ii) No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount it received for fiscal year 1997; and

(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

(II) the sum of—

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

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

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

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

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

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

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

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

(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount it received for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

(d) RESERVATION FOR STATE ACTIVITIES.—

(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(e) STATE ADMINISTRATION.—

(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

(1) for support services (including establishing and implementing the mediation and voluntary binding arbitration process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

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

(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart; or

(4) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education

and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

(i) DEFINITION.—For the purpose of this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.

PART C—INFANTS AND TODDLERS WITH DISABILITIES

[SEC. 631. FINDINGS AND POLICY.

[(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

[(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

[(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

[(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

[(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

[(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

[(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

[(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

[(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

[(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

[(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

[SEC. 632. DEFINITIONS.

[As used in this part:

[(1) AT-RISK INFANT OR TODDLER.—The term "at-risk infant or toddler" means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

[(2) COUNCIL.—The term "council" means a State interagency coordinating council established under section 641.

[(3) DEVELOPMENTAL DELAY.—The term "developmental delay", when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

[(4) EARLY INTERVENTION SERVICES.—The term "early intervention services" means developmental services that—

[(A) are provided under public supervision;

[(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

[(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—

[(i) physical development;

[(ii) cognitive development;

[(iii) communication development;

[(iv) social or emotional development; or

[(v) adaptive development;

[(D) meet the standards of the State in which they are provided, including the requirements of this part;

[(E) include—

[(i) family training, counseling, and home visits;

[(ii) special instruction;

[(iii) speech-language pathology and audiology services;

[(iv) occupational therapy;

[(v) physical therapy;

[(vi) psychological services;

[(vii) service coordination services;

[(viii) medical services only for diagnostic or evaluation purposes;

[(ix) early identification, screening, and assessment services;

[(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

[(xi) social work services;

[(xii) vision services;

[(xiii) assistive technology devices and assistive technology services; and

[(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

[(F) are provided by qualified personnel, including—

[(i) special educators;

[(ii) speech-language pathologists and audiologists;
[(iii) occupational therapists;
[(iv) physical therapists;
[(v) psychologists;
[(vi) social workers;
[(vii) nurses;
[(viii) nutritionists;
[(ix) family therapists;
[(x) orientation and mobility specialists; and
[(xi) pediatricians and other physicians;

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

[(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

[(5) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability"—

[(A) means an individual under 3 years of age who needs early intervention services because the individual—

[(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

[(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and

[(B) may also include, at a State's discretion, at-risk infants and toddlers.

[SEC. 633. GENERAL AUTHORITY.

[The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

[SEC. 634. ELIGIBILITY.

[In order to be eligible for a grant under section 633, a State shall demonstrate to the Secretary that the State—

[(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

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

[SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

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

[(1) A definition of the term "developmental delay" that will be used by the State in carrying out programs under this part.

[(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

[(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

[(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

[(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

[(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

[(7) A central directory which includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

[(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 612(a)(14) and may include—

[(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

[(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

[(C) training personnel to work in rural and inner-city areas; and

[(D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.

[(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

[(A) the establishment and maintenance of standards which are consistent with any State-approved or recog-

nized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

[(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State;

except that nothing in this part, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.

[(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

[(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

[(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

[(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

[(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

[(E) the resolution of intra- and interagency disputes; and

[(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

[(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

[(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

[(13) Procedural safeguards with respect to programs under this part, as required by section 639.

[(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

[(15) A State interagency coordinating council that meets the requirements of section 641.

[(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

[(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

[(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

[(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

[SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

[(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

[(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

[(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

[(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e).

[(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

[(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

[(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

[(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

[(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

[(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being

made and whether modifications or revisions of the outcomes or services are necessary;

[(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

[(5) a statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

[(6) the projected dates for initiation of services and the anticipated duration of the services;

[(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

[(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

[(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention services to which consent is obtained shall be provided.

[SEC. 637. STATE APPLICATION AND ASSURANCES.

[(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

[(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

[(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

[(3) information demonstrating eligibility of the State under section 634, including—

[(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and

[(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

[(4) if the State provides services to at-risk infants and toddlers through the system, a description of such services;

[(5) a description of the uses for which funds will be expended in accordance with this part;

[(6) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

[(7) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy

or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

[(8) a description of the policies and procedures to be used—

[(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

[(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

[(ii) the lead agency designated or established under section 635(a)(10) will—

[(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

[(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

[(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

[(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

[(C) to establish a transition plan; and

[(9) such other information and assurances as the Secretary may reasonably require.

[(b) ASSURANCES.—The application described in subsection (a)—

[(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

[(2) shall contain an assurance that the State will comply with the requirements of section 640;

[(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

[(4) shall provide for—

[(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

[(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

[(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

[(A) will not be commingled with State funds; and

[(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

[(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

[(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

[(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

[(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

[(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part H (as in effect before July 1, 1998), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

[(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

[(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

[(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

[(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

[(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

[SEC. 638. USES OF FUNDS.

[In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

[(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

[(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

[(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

[(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

[(A) identifying and evaluating at-risk infants and toddlers;

[(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

[(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.]

SEC. 631. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

SEC. 632. DEFINITIONS.

As used in this part:

(1) AT-RISK INFANT OR TODDLER.—The term "at-risk infant or toddler" means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

(2) COUNCIL.—The term "council" means a State interagency coordinating council established under section 641.

(3) DEVELOPMENTAL DELAY.—The term "developmental delay", when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

(4) EARLY INTERVENTION SERVICES.—The term "early intervention services" means developmental services that—

(A) are provided under public supervision;

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(C) are designed to address family-identified priorities and concerns that are determined by individualized family service plan team to relate to enhancing the child's development in any one or more of the following areas—

(i) physical development;

(ii) cognitive development;

(iii) communication development;

(iv) social or emotional development; or

(v) adaptive development;

(D) meet the standards of the State in which they are provided, including the requirements of this part;

(E) include—

(i) family training, family therapy, counseling, and home visits;

(ii) special instruction;

(iii) speech-language pathology and audiology services;

(iv) occupational therapy;

(v) physical therapy;

(vi) psychological services;

(vii) service coordination services;

(viii) medical services only for diagnostic or evaluation purposes;

(ix) early identification, screening, and assessment services;

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

(xi) social work services;

(xii) vision services;

(xiii) assistive technology devices and assistive technology services; and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

(F) are provided by qualified personnel, including—

(i) special educators;

(ii) speech-language pathologists and audiologists;

(iii) occupational therapists;

(iv) physical therapists;

(v) psychologists;

(vi) social workers;

(vii) nurses;

(viii) registered dietitians;

(ix) family therapists;

(x) vision specialists, including ophthalmologists and optometrists;

(xi) orientation and mobility specialists; and

(xii) pediatricians and other physicians;

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

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

(5) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability"—

(A) means an individual under 3 years of age who needs early intervention services because the individual—

(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

(B) may also include, at a State's discretion, at-risk infants and toddlers; and

(C) may also include, at a State's discretion, a child aged 3 through 5, who previously received services under this part and who is eligible for services under section 619, if—

(i) services provided to this age group under this part include an educational component that promotes school readiness and incorporates scientifically based pre-literacy, language, and numeracy skills; and

(ii) parents are provided a written notification of their rights and responsibilities in determining wheth-

er their child will continue to receive services under this part or participate in preschool programs assisted under section 619.

SEC. 633. GENERAL AUTHORITY.

The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

SEC. 634. ELIGIBILITY.

In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—

(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

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

SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

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

(1) A definition of the term "developmental delay" that will be used by the State in carrying out programs under this part.

(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619 of this Act, and procedures for assisting

such sources in disseminating such information to parents of infants and toddlers.

(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—

(A) shall include—

(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and

(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and

(B) may include—

(i) training personnel to work in rural and inner-city areas; and

(ii) training personnel in the emotional and social development of young children.

(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services.

(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending

the resolution of any disputes among public agencies or service providers;

(E) the resolution of intra- and interagency disputes; and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

(13) Procedural safeguards with respect to programs under this part, as required by section 639.

(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

(15) A State interagency coordinating council that meets the requirements of section 641.

(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

(c) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—

(1) IN GENERAL.—If a State includes children described in section 632(5)(C) in the system described in section 633, the State shall be considered to have fulfilled any obligation under part B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the child's entrance in school.

(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the goals is being made and whether modifications or revisions of the goals or services are necessary;

(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

SEC. 637. STATE APPLICATION AND ASSURANCES.

(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

(3) information demonstrating eligibility of the State under section 634, including a description of services to be provided to infants and toddlers with disabilities and their families through the system;

(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

(5) a description of the State policies and procedures requiring the referral of a child under the age 3 who is involved in a substantiated case of child abuse or neglect consistent with section 635(a)(5) or who is born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication, or neonatal physical or neurological harm resulting from prenatal drug exposure;

(6) a description of the uses for which funds will be expended in accordance with this part;

(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(9) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

(ii) the lead agency designated or established under section 635(a)(10) will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for pre-

school services under part B, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan;

(10) a description of State efforts to promote collaboration between Early Head Start programs, child care, and services under part C of this Act; and

(11) such other information and assurances as the Secretary may reasonably require.

(b) ASSURANCES.—The application described in subsection (a)—

(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

(2) shall contain an assurance that the State will comply with the requirements of section 640;

(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

(4) shall provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

(A) will not be commingled with State funds; and

(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

SEC. 638. USES OF FUNDS.

In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the

statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

(A) identifying and evaluating at-risk infants and toddlers;

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

(C) conducting periodic followup on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

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[SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

[(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

[(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

[(b) COMPOSITION.—

[(1) IN GENERAL.—The council shall be composed as follows:

[(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

[(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

[(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

[(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

[(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

[(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency re-

sponsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

[(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

[(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

[(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

[(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

[(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

[(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

[(e) FUNCTIONS OF COUNCIL.—

[(1) DUTIES.—The council shall—

[(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

[(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

[(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

[(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

[(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers

and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

[(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

[SEC. 642. FEDERAL ADMINISTRATION.

[Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

[(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

[(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

[(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

[SEC. 643. ALLOCATION OF FUNDS.

[(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

[(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

[(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

[(b) PAYMENTS TO INDIANS.—

[(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

[(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

[(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

[(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

[(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(i)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

[(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

[(c) STATE ALLOTMENTS.—

[(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

[(2) MINIMUM ALLOTMENTS.—Except as provided in paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of—

[(A) one-half of one percent of the remaining amount described in paragraph (1); or

[(B) $500,000.

[(3) SPECIAL RULE FOR 1998 AND 1999.—

[(A) IN GENERAL.—Except as provided in paragraph (4), no State may receive an amount under this section for either fiscal year 1998 or 1999 that is less than the sum of

the amounts such State received for fiscal year 1994 under—

[(i) part H (as in effect for such fiscal year); and

[(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with disabilities under 3 years of age.

[(B) EXCEPTION.—If, for fiscal year 1998 or 1999, the number of infants and toddlers in a State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for the State shall be reduced by the same percentage by which the number of such infants and toddlers so declined.

[(4) RATABLE REDUCTION.—

[(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

[(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

[(5) DEFINITIONS.—For the purpose of this subsection—

[(A) the terms "infants" and "toddlers" mean children under 3 years of age; and

[(B) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

[SEC. 644. FEDERAL INTERAGENCY COORDINATING COUNCIL.

[(a) ESTABLISHMENT AND PURPOSE.—

[(1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

[(A) minimize duplication of programs and activities across Federal, State, and local agencies, relating to—

[(i) early intervention services for infants and toddlers with disabilities (including at-risk infants and toddlers) and their families; and

[(ii) preschool or other appropriate services for children with disabilities;

[(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

[(C) coordinate the provision of Federal technical assistance and support activities to States;

[(D) identify gaps in Federal agency programs and services; and

[(E) identify barriers to Federal interagency cooperation.

[(2) APPOINTMENTS.—The council established under paragraph (1) (hereafter in this section referred to as the "Council") and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that the member represents.

[(b) COMPOSITION.—The Council shall be composed of—

[(1) a representative of the Office of Special Education Programs;

[(2) a representative of the National Institute on Disability and Rehabilitation Research and a representative of the Office of Educational Research and Improvement;

[(3) a representative of the Maternal and Child Health Services Block Grant Program;

[(4) a representative of programs administered under the Developmental Disabilities Assistance and Bill of Rights Act of 2000;

[(5) a representative of the Health Care Financing Administration;

[(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

[(7) a representative of the Social Security Administration;

[(8) a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;

[(9) a representative of the National Institute of Mental Health;

[(10) a representative of the National Institute of Child Health and Human Development;

[(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

[(12) a representative of the Indian Health Service;

[(13) a representative of the Surgeon General;

[(14) a representative of the Department of Defense;

[(15) a representative of the Children's Bureau, and a representative of the Head Start Bureau, of the Administration for Children and Families;

[(16) a representative of the Substance Abuse and Mental Health Services Administration;

[(17) a representative of the Pediatric AIDS Health Care Demonstration Program in the Public Health Service;

[(18) parents of children with disabilities age 12 or under (who shall constitute at least 20 percent of the members of the Council), of whom at least one must have a child with a disability under the age of 6;

[(19) at least two representatives of State lead agencies for early intervention services to infants and toddlers, one of whom must be a representative of a State educational agency and the other a representative of a non-educational agency;

[(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants

and toddlers with disabilities and their families and preschool children with disabilities; and

[(21) other persons appointed by the Secretary.

[(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

[(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

[(1) advise and assist the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Social Security in the performance of their responsibilities related to serving children from birth through age 5 who are eligible for services under this part or under part B;

[(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

[(3) identify strategies to address issues described in paragraph (2);

[(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

[(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

[(6) facilitate activities in support of States' interagency coordination efforts.

[(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

[(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the Council.

[SEC. 645. AUTHORIZATION OF APPROPRIATIONS.

[For the purpose of carrying out this part, there are authorized to be appropriated $400,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002.

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

[Subpart 1—State Program Improvement Grants for Children with Disabilities

[SEC. 651. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds the following:

[(1) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

[(2) In order for States to address such demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities.

[(3) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century.

[(4) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

[(5) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic-change activities can now be based.

[(6) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

[(A) maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve those standards and goals;

[(B) create a system that fully addresses the needs of all students, including children with disabilities, by addressing the needs of children with disabilities in carrying out educational reform activities;

[(C) clearly define, in measurable terms, the school and post-school results that children with disabilities are expected to achieve;

[(D) promote service integration, and the coordination of State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who require significant levels of support to maximize their participation and learning in school and the community;

[(E) ensure that children with disabilities are provided assistance and support in making transitions as described in section 674(b)(3)(C);

[(F) promote comprehensive programs of professional development to ensure that the persons responsible for the education or a transition of children with disabilities pos-

sess the skills and knowledge necessary to address the educational and related needs of those children;

[(G) disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities;

[(H) create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

[(I) establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and

[(J) involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

[(b) PURPOSE.—The purpose of this subpart is to assist State educational agencies, and their partners referred to in section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

[SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.

[(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a grant period of not less than 1 year and not more than 5 years.

[(b) PARTNERS.—

[(1) REQUIRED PARTNERS.—

[(A) CONTRACTUAL PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities.

[(B) OTHER PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—

[(i) the Governor;

[(ii) parents of children with disabilities;

[(iii) parents of nondisabled children;

[(iv) individuals with disabilities;

[(v) organizations representing individuals with disabilities and their parents, such as parent training and information centers;

[(vi) community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

[(vii) the lead State agency for part C;

[(viii) general and special education teachers, and early intervention personnel;

[(ix) the State advisory panel established under part C;

[(x) the State interagency coordinating council established under part C; and

[(xi) institutions of higher education within the State.

[(2) OPTIONAL PARTNERS.—A partnership under subparagraph (A) or (B) of paragraph (1) may also include—

[(A) individuals knowledgeable about vocational education;

[(B) the State agency for higher education;

[(C) the State vocational rehabilitation agency;

[(D) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and

[(E) other individuals.

[SEC. 653. APPLICATIONS.

[(a) IN GENERAL.—

[(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

[(2) STATE IMPROVEMENT PLAN.—The application shall include a State improvement plan that—

[(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, as appropriate; and

[(B) meets the requirements of this section.

[(b) DETERMINING CHILD AND PROGRAM NEEDS.—

[(1) IN GENERAL.—Each State improvement plan shall identify those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(16).

[(2) REQUIRED ANALYSES.—To meet the requirement of paragraph (1), the State improvement plan shall include at least—

[(A) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including—

[(i) their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

[(ii) their participation in postsecondary education and employment; and

[(iii) how their performance on the assessments and indicators described in clause (i) compares to that of non-disabled children;

[(B) an analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum—

[(i) the number of personnel providing special education and related services; and

[(ii) relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals described in clause (i) with temporary certification), and on the extent of certification or retraining necessary to eliminate such shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs;

[(C) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and

[(D) an analysis of other information, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

[(c) IMPROVEMENT STRATEGIES.—Each State improvement plan shall—

[(1) describe a partnership agreement that—

[(A) specifies—

[(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

[(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

[(B) is in effect for the period of the grant;

[(2) describe how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including part B funds retained for use at the State level under sections 611(f) and 619(d), that will be committed to the systemic-change activities;

[(3) describe the strategies the State will use to address the needs identified under subsection (b), including—

[(A) how the State will change State policies and procedures to address systemic barriers to improving results for children with disabilities;

[(B) how the State will hold local educational agencies and schools accountable for educational progress of children with disabilities;

[(C) how the State will provide technical assistance to local educational agencies and schools to improve results for children with disabilities;

[(D) how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how—

[(i) the State will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

[(ii) the State will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

[(iii) the State will work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

[(iv) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

[(v) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

[(vi) the State will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;

[(vii) the State will acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State will, when appropriate, adopt promising practices, materials, and technology;

[(viii) the State will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services;

[(ix) the plan is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and

[(x) the State will provide for the joint training of parents and special education, related services, and general education personnel;

[(E) strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel;

[(F) how the State will disseminate results of the local capacity-building and improvement projects funded under section 611(f)(4);

[(G) how the State will address improving results for children with disabilities in the geographic areas of greatest need; and

[(H) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and

[(4) describe how the improvement strategies described in paragraph (3) will be coordinated with public and private sector resources.

[(d) COMPETITIVE AWARDS.—

[(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

[(2) PRIORITY.—The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews.

[(e) PEER REVIEW.—

[(1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart.

[(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

[(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

[(f) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

[SEC. 654. USE OF FUNDS.

[(a) IN GENERAL.—

[(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart may use the grant to carry out any activities that are described in the State's application and that are consistent with the purpose of this subpart.

[(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

[(A) shall, consistent with its partnership agreement under section 652(b), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan under this subpart; and

[(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

[(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart—

[(1) shall use not less than 75 percent of the funds it receives under the grant for any fiscal year—

[(A) to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or

[(B) to work with other States on common certification criteria; or

[(2) shall use not less than 50 percent of such funds for such purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (1)(A).

[(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

[SEC. 655. MINIMUM STATE GRANT AMOUNTS.

[(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

[(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

[(2) not less than $80,000, in the case of an outlying area.

[(b) INFLATION ADJUSTMENT.—Beginning with fiscal year 1999, the Secretary may increase the maximum amount described in subsection (a)(1) to account for inflation.

[(c) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

[(1) the amount of funds available for making the grants;

[(2) the relative population of the State or outlying area; and

[(3) the types of activities proposed by the State or outlying area.

[SEC. 656. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1998 through 2002.

[Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information

[SEC. 661. ADMINISTRATIVE PROVISIONS.

[(a) COMPREHENSIVE PLAN.—

[(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State edu-

cational agencies in applications submitted for State program improvement grants under subpart 1.

[(2) PARTICIPANTS IN PLAN DEVELOPMENT.—In developing the plan described in paragraph (1), the Secretary shall consult with—

[(A) individuals with disabilities;

[(B) parents of children with disabilities;

[(C) appropriate professionals; and

[(D) representatives of State and local educational agencies, private schools, institutions of higher education, other Federal agencies, the National Council on Disability, and national organizations with an interest in, and expertise in, providing services to children with disabilities and their families.

[(3) PUBLIC COMMENT.—The Secretary shall take public comment on the plan.

[(4) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

[(5) REPORTS TO CONGRESS.—The Secretary shall periodically report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 18 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997.

[(b) ELIGIBLE APPLICANTS.—

[(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

[(A) A State educational agency.

[(B) A local educational agency.

[(C) An institution of higher education.

[(D) Any other public agency.

[(E) A private nonprofit organization.

[(F) An outlying area.

[(G) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act).

[(H) A for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this subpart.

[(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

[(c) USE OF FUNDS BY SECRETARY.—Notwithstanding any other provision of law, and in addition to any authority granted the Secretary under chapter 1 or chapter 2, the Secretary may use up to 20 percent of the funds available under either chapter 1 or chapter 2 for any fiscal year to carry out any activity, or combination of activities, subject to such conditions as the Secretary determines are appropriate effectively to carry out the purposes of such chapters, that—

[(1) is consistent with the purposes of chapter 1, chapter 2, or both; and

[(2) involves—

[(A) research;

[(B) personnel preparation;

[(C) parent training and information;

[(D) technical assistance and dissemination;

[(E) technology development, demonstration, and utilization; or

[(F) media services.

[(d) SPECIAL POPULATIONS.—

[(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

[(2) OUTREACH AND TECHNICAL ASSISTANCE.—

[(A) REQUIREMENT.—Notwithstanding any other provision of this Act, the Secretary shall ensure that at least one percent of the total amount of funds appropriated to carry out this subpart is used for either or both of the following activities:

[(i) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

[(ii) To enable Historically Black Colleges and Universities, and the institutions described in clause (i), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities.

[(B) RESERVATION OF FUNDS.—The Secretary may reserve funds appropriated under this subpart to satisfy the requirement of subparagraph (A).

[(e) PRIORITIES.—

[(1) IN GENERAL.—Except as otherwise explicitly authorized in this subpart, the Secretary shall ensure that a grant, contract, or cooperative agreement under chapter 1 or 2 is awarded only—

[(A) for activities that are designed to benefit children with disabilities, their families, or the personnel employed to work with such children or their families; or

[(B) to benefit other individuals with disabilities that such chapter is intended to benefit.

[(2) PRIORITY FOR PARTICULAR ACTIVITIES.—Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rule making procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

[(A) projects that address one or more—

[(i) age ranges;

[(ii) disabilities;

[(iii) school grades;

[(iv) types of educational placements or early intervention environments;

[(v) types of services;

[(vi) content areas, such as reading; or

[(vii) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

[(B) projects that address the needs of children based on the severity of their disability;

[(C) projects that address the needs of—

[(i) low-achieving students;

[(ii) underserved populations;

[(iii) children from low-income families;

[(iv) children with limited English proficiency;

[(v) unserved and underserved areas;

[(vi) particular types of geographic areas; or

[(vii) children whose behavior interferes with their learning and socialization;

[(D) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

[(E) projects that are carried out in particular areas of the country, to ensure broad geographic coverage; and

[(F) any activity that is expressly authorized in chapter 1 or 2.

[(f) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

[(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

[(A) involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project; and

[(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

[(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

[(A) to share in the cost of the project;

[(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

[(C) to disseminate such findings and products; and

[(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

[(g) APPLICATION MANAGEMENT.—

[(1) STANDING PANEL.—

[(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart that, individually, request

more than $75,000 per year in Federal financial assistance.

[(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

[(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out programs of personnel preparation;

[(ii) individuals who design and carry out programs of research targeted to the improvement of special education programs and services;

[(iii) individuals who have recognized experience and knowledge necessary to integrate and apply research findings to improve educational and transitional results for children with disabilities;

[(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

[(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

[(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

[(vii) individuals who are parents of children with disabilities who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

[(viii) individuals with disabilities.

[(C) TRAINING.—The Secretary shall provide training to the individuals who are selected as members of the standing panel under this paragraph.

[(D) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years, unless the Secretary determines that the individual's continued participation is necessary for the sound administration of this subpart.

[(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

[(A) COMPOSITION.—The Secretary shall ensure that each sub-panel selected from the standing panel that reviews applications under this subpart includes—

[(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

[(ii) to the extent practicable, parents of children with disabilities, individuals with disabilities, and persons from diverse backgrounds.

[(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each sub-panel that reviews an application under this subpart shall be individuals who are not employees of the Federal Government.

[(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

[(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members

who are not officers or employees of the Federal Government.

[(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

[(C) MONITORING.—The Secretary may use funds available under this subpart to pay the expenses of Federal employees to conduct on-site monitoring of projects receiving $500,000 or more for any fiscal year under this subpart.

[(h) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

[(i) MINIMUM FUNDING REQUIRED.—

[(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

[(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

[(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

[(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

[(2) RATABLE REDUCTION.—If the total amount appropriated to carry out sections 672, 673, and 685 for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

[(j) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619[(b).

[Chapter 1—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities through Coordinated Research and Personnel Preparation

[SEC. 671. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds the following:

[(1) The Federal Government has an ongoing obligation to support programs, projects, and activities that contribute to positive results for children with disabilities, enabling them—

[(A) to meet their early intervention, educational, and transitional goals and, to the maximum extent possible,

educational standards that have been established for all children; and

[(B) to acquire the skills that will empower them to lead productive and independent adult lives.

[(2)(A) As a result of more than 20 years of Federal support for research, demonstration projects, and personnel preparation, there is an important knowledge base for improving results for children with disabilities.

[(B) Such knowledge should be used by States and local educational agencies to design and implement state-of-the-art educational systems that consider the needs of, and include, children with disabilities, especially in environments in which they can learn along with their peers and achieve results measured by the same standards as the results of their peers.

[(3)(A) Continued Federal support is essential for the development and maintenance of a coordinated and high-quality program of research, demonstration projects, dissemination of information, and personnel preparation.

[(B) Such support—

[(i) enables State educational agencies and local educational agencies to improve their educational systems and results for children with disabilities;

[(ii) enables State and local agencies to improve early intervention services and results for infants and toddlers with disabilities and their families; and

[(iii) enhances the opportunities for general and special education personnel, related services personnel, parents, and paraprofessionals to participate in pre-service and in-service training, to collaborate, and to improve results for children with disabilities and their families.

[(4) The Federal Government plays a critical role in facilitating the availability of an adequate number of qualified personnel—

[(A) to serve effectively the over 5,000,000 children with disabilities;

[(B) to assume leadership positions in administrative and direct-service capacities related to teacher training and research concerning the provision of early intervention services, special education, and related services; and

[(C) to work with children with low-incidence disabilities and their families.

[(5) The Federal Government performs the role described in paragraph (4)—

[(A) by supporting models of personnel development that reflect successful practice, including strategies for recruiting, preparing, and retaining personnel;

[(B) by promoting the coordination and integration of—

[(i) personnel-development activities for teachers of children with disabilities; and

[(ii) other personnel-development activities supported under Federal law, including this chapter;

[(C) by supporting the development and dissemination of information about teaching standards; and

[(D) by promoting the coordination and integration of personnel-development activities through linkage with systemic-change activities within States and nationally.

[(b) PURPOSE.—The purpose of this chapter is to provide Federal funding for coordinated research, demonstration projects, outreach, and personnel-preparation activities that—

[(1) are described in sections 672 through 674;

[(2) are linked with, and promote, systemic change; and

[(3) improve early intervention, educational, and transitional results for children with disabilities.

[SEC. 672. RESEARCH AND INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

[(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to produce, and advance the use of, knowledge—

[(1) to improve—

[(A) services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities; and

[(B) educational results for children with disabilities;

[(2) to address the special needs of preschool-aged children and infants and toddlers with disabilities, including infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them;

[(3) to address the specific problems of over-identification and under-identification of children with disabilities;

[(4) to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

[(5) to improve secondary and postsecondary education and transitional services for children with disabilities; and

[(6) to address the range of special education, related services, and early intervention needs of children with disabilities who need significant levels of support to maximize their participation and learning in school and in the community.

[(b) NEW KNOWLEDGE PRODUCTION; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that lead to the production of new knowledge.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Expanding understanding of the relationships between learning characteristics of children with disabilities and the diverse ethnic, cultural, linguistic, social, and economic backgrounds of children with disabilities and their families.

[(B) Developing or identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and developing or identifying positive academic and social learning opportunities, that—

[(i) enable children with disabilities to make effective transitions described in section 674(b)(3)(C) or transitions between educational settings; and

[(ii) improve educational and transitional results for children with disabilities at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of the children, as measured by assessments within the general education curriculum involved.

[(C) Advancing the design of assessment tools and procedures that will accurately and efficiently determine the special instructional, learning, and behavioral needs of children with disabilities, especially within the context of general education.

[(D) Studying and promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, evaluation and accountability of such reforms, and administrative procedures.

[(E) Advancing the design, development, and integration of technology, assistive technology devices, media, and materials, to improve early intervention, educational, and transitional services and results for children with disabilities.

[(F) Improving designs, processes, and results of personnel preparation for personnel who provide services to children with disabilities through the acquisition of information on, and implementation of, research-based practices.

[(G) Advancing knowledge about the coordination of education with health and social services.

[(H) Producing information on the long-term impact of early intervention and education on results for individuals with disabilities through large-scale longitudinal studies.

[(c) INTEGRATION OF RESEARCH AND PRACTICE; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that integrate research and practice, including activities that support State systemic-change and local capacity-building and improvement efforts.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Model demonstration projects to apply and test research findings in typical service settings to determine the usability, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media.

[(B) Demonstrating and applying research-based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

[(C) Promoting and demonstrating the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies.

[(D) Identifying and disseminating solutions that overcome systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to children with disabilities.

[(d) IMPROVING THE USE OF PROFESSIONAL KNOWLEDGE; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that improve the use of professional knowledge, including activities that support State systemic-change and local capacity-building and improvement efforts.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Synthesizing useful research and other information relating to the provision of services to children with disabilities, including effective practices.

[(B) Analyzing professional knowledge bases to advance an understanding of the relationships, and the effectiveness of practices, relating to the provision of services to children with disabilities.

[(C) Ensuring that research and related products are in appropriate formats for distribution to teachers, parents, and individuals with disabilities.

[(D) Enabling professionals, parents of children with disabilities, and other persons, to learn about, and implement, the findings of research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities.

[(E) Conducting outreach, and disseminating information relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services, to personnel who provide services to children with disabilities.

[(e) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance—

[(1) among knowledge production, integration of research and practice, and use of professional knowledge; and

[(2) across all age ranges of children with disabilities.

[(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

[SEC. 673. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

[(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

[(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and

[(2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined, through research and experience, to be successful, that are needed to serve those children.

[(b) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Preparing persons who—

[(i) have prior training in educational and other related service fields; and

[(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

[(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities.

[(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with disabilities through early intervention, educational, and transitional services.

[(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

[(E) Preparing personnel to be qualified educational interpreters, to assist children with disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

[(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

[(3) DEFINITION.—As used in this section, the term "low-incidence disability" means—

[(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

[(B) a significant cognitive impairment; or

[(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

[(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

[(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

[(c) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Preparing personnel at the advanced graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities.

[(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

[(d) PROJECTS OF NATIONAL SIGNIFICANCE; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that are of national significance and have broad applicability.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Developing and demonstrating effective and efficient practices for preparing personnel to provide services to children with disabilities, including practices that address any needs identified in the State's improvement plan under part C;

[(B) Demonstrating the application of significant knowledge derived from research and other sources in the development of programs to prepare personnel to provide services to children with disabilities.

[(C) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special

education, and general education personnel, to enable the personnel—

[(i) to acquire the collaboration skills necessary to work within teams to assist children with disabilities; and

[(ii) to achieve results that meet challenging standards, particularly within the general education curriculum.

[(D) Demonstrating models that reduce shortages of teachers, and personnel from other relevant disciplines, who serve children with disabilities, through reciprocity arrangements between States that are related to licensure and certification.

[(E) Developing, evaluating, and disseminating model teaching standards for persons working with children with disabilities.

[(F) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

[(G) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

[(H) Institutes that provide professional development that addresses the needs of children with disabilities to teachers or teams of teachers, and where appropriate, to school board members, administrators, principals, pupil-service personnel, and other staff from individual schools.

[(I) Projects to improve the ability of general education teachers, principals, and other administrators to meet the needs of children with disabilities.

[(J) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

[(K) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

[(e) HIGH-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), to benefit children with high-incidence disabilities, such as children with specific learning disabilities, speech or language impairment, or mental retardation.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

[(A) Activities undertaken by institutions of higher education, local educational agencies, and other local entities—

[(i) to improve and reform their existing programs to prepare teachers and related services personnel—

[(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

[(II) to work collaboratively in regular classroom settings; and

[(ii) to incorporate best practices and research-based knowledge about preparing personnel so they will have the knowledge and skills to improve educational results for children with disabilities.

[(B) Activities incorporating innovative strategies to recruit and prepare teachers and other personnel to meet the needs of areas in which there are acute and persistent shortages of personnel.

[(C) Developing career opportunities for paraprofessionals to receive training as special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

[(f) APPLICATIONS.—

[(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[(2) IDENTIFIED STATE NEEDS.—

[(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (e) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

[(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies have engaged in a cooperative effort to plan the project to which the application pertains, and will cooperate in carrying out and monitoring the project.

[(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide letters from one or more States stating that the States—

[(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities; and

[(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

[(g) SELECTION OF RECIPIENTS.—

[(1) IMPACT OF PROJECT.—In selecting recipients under this section, the Secretary may consider the impact of the project

proposed in the application in meeting the need for personnel identified by the States.

[(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally-recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

[(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

[(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

[(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

[(h) SERVICE OBLIGATION.—

[(1) IN GENERAL.—Each application for funds under subsections (b) and (e), and to the extent appropriate subsection (d), shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

[(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

[(i) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).

[(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

[SEC. 674. STUDIES AND EVALUATIONS.

[(a) STUDIES AND EVALUATIONS.—

[(1) IN GENERAL.—The Secretary shall, directly or through grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

[(A) a free appropriate public education to children with disabilities; and

[(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at

risk of having substantial developmental delays if early intervention services were not provided to them.

[(2) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support studies, evaluations, and assessments, including studies that—

[(A) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

[(B) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;

[(C) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

[(i) data on—

[(I) the number of minority children who are referred for special education evaluation;

[(II) the number of minority children who are receiving special education and related services and their educational or other service placement; and

[(III) the number of minority children who graduated from secondary and postsecondary education programs; and

[(ii) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

[(D) measure educational and transitional services and results of children with disabilities under this Act, including longitudinal studies that—

[(i) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

[(ii) examine educational results, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act; and

[(E) identify and report on the placement of children with disabilities by disability category.

[(b) NATIONAL ASSESSMENT.—

[(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

[(A) to determine the effectiveness of this Act in achieving its purposes;

[(B) to provide information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

[(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

[(2) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this subsection in consultation with researchers, State practitioners, local practitioners, parents of children with disabilities, individuals with disabilities, and other appropriate individuals.

[(3) SCOPE OF ASSESSMENT.—The national assessment shall examine how well schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary are achieving the purposes of this Act, including—

[(A) improving the performance of children with disabilities in general scholastic activities and assessments as compared to nondisabled children;

[(B) providing for the participation of children with disabilities in the general curriculum;

[(C) helping children with disabilities make successful transitions from—

[(i) early intervention services to preschool education;

[(ii) preschool education to elementary school; and

[(iii) secondary school to adult life;

[(D) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

[(E) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

[(F) addressing behavioral problems of children with disabilities as compared to nondisabled children;

[(G) coordinating services provided under this Act with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources;

[(H) providing for the participation of parents of children with disabilities in the education of their children; and

[(I) resolving disagreements between education personnel and parents through activities such as mediation.

[(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

[(A) an interim report that summarizes the preliminary findings of the assessment not later than October 1, 1999; and

[(B) a final report of the findings of the assessment not later than October 1, 2001.

[(c) ANNUAL REPORT.—The Secretary shall report annually to the Congress on—

[(1) an analysis and summary of the data reported by the States and the Secretary of the Interior under section 618;

[(2) the results of activities conducted under subsection (a);

[(3) the findings and determinations resulting from reviews of State implementation of this Act.

[(d) TECHNICAL ASSISTANCE TO LEAS.—The Secretary shall provide directly, or through grants, contracts, or cooperative agreements, technical assistance to local educational agencies to assist them in carrying out local capacity-building and improvement projects under section 611(f)(4) and other LEA systemic improvement activities under this Act.

[(e) RESERVATION FOR STUDIES AND TECHNICAL ASSISTANCE.—

[(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the Secretary may reserve up to one-half of one percent of the amount appropriated under parts B and C for each fiscal year to carry out this section.

[(2) MAXIMUM AMOUNT.—For the first fiscal year in which the amount described in paragraph (1) is at least $20,000,000, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000. For each subsequent fiscal year, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000, increased by the cumulative rate of inflation since the fiscal year described in the previous sentence.

[(3) USE OF MAXIMUM AMOUNT.—In any fiscal year described in paragraph (2) for which the Secretary reserves the maximum amount described in that paragraph, the Secretary shall use at least half of the reserved amount for activities under subsection (d).

[Chapter 2—Improving Early Intervention, Educational, and Transitional Services and Results for Children With Disabilities Through Coordinated Technical Assistance, Support, and Dissemination of Information

[SEC. 681. FINDINGS AND PURPOSES.

[(a) IN GENERAL.—The Congress finds as follows:

[(1) National technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

[(2) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

[(3) Parent training and information activities have taken on increased importance in efforts to assist parents of a child with a disability in dealing with the multiple pressures of rearing such a child and are of particular importance in—

[(A) ensuring the involvement of such parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

[(B) achieving quality early intervention, educational, and transitional results for children with disabilities;

[(C) providing such parents information on their rights and protections under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

[(D) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 674(b)(3)(C); and

[(E) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families.

[(4) Providers of parent training and information activities need to ensure that such parents who have limited access to services and supports, due to economic, cultural, or linguistic barriers, are provided with access to appropriate parent training and information activities.

[(5) Parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under part B.

[(6) The provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities is essential in—

[(A) supporting the process of achieving systemic change;

[(B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities;

[(C) conveying information and assistance that are—

[(i) based on current research (as of the date the information and assistance are conveyed);

[(ii) accessible and meaningful for use in supporting systemic-change activities of State and local partnerships; and

[(iii) linked directly to improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

[(D) organizing systems and information networks for such information, based on modern technology related to—

[(i) storing and gaining access to information; and

[(ii) distributing information in a systematic manner to parents, students, professionals, and policymakers.

[(7) Federal support for carrying out technology research, technology development, and educational media services and activities has resulted in major innovations that have significantly improved early intervention, educational, and transitional services and results for children with disabilities and their families.

[(8) Such Federal support is needed—

[(A) to stimulate the development of software, interactive learning tools, and devices to address early inter-

vention, educational, and transitional needs of children with disabilities who have certain disabilities;

[(B) to make information available on technology research, technology development, and educational media services and activities to individuals involved in the provision of early intervention, educational, and transitional services to children with disabilities;

[(C) to promote the integration of technology into curricula to improve early intervention, educational, and transitional results for children with disabilities;

[(D) to provide incentives for the development of technology and media devices and tools that are not readily found or available because of the small size of potential markets;

[(E) to make resources available to pay for such devices and tools and educational media services and activities;

[(F) to promote the training of personnel—

[(i) to provide such devices, tools, services, and activities in a competent manner; and

[(ii) to assist children with disabilities and their families in using such devices, tools, services, and activities; and

[(G) to coordinate the provision of such devices, tools, services, and activities—

[(i) among State human services programs; and

[(ii) between such programs and private agencies.

[(b) PURPOSES.—The purposes of this chapter are to ensure that—

[(1) children with disabilities, and their parents, receive training and information on their rights and protections under this Act, in order to develop the skills necessary to effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services and in systemic-change activities;

[(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons, through systemic-change activities and other efforts, to improve early intervention, educational, and transitional services and results for children with disabilities and their families;

[(3) appropriate technology and media are researched, developed, demonstrated, and made available in timely and accessible formats to parents, teachers, and all types of personnel providing services to children with disabilities to support their roles as partners in the improvement and implementation of early intervention, educational, and transitional services and results for children with disabilities and their families;

[(4) on reaching the age of majority under State law, children with disabilities understand their rights and responsibilities under part B, if the State provides for the transfer of parental rights under section 615(m); and

[(5) the general welfare of deaf and hard-of-hearing individuals is promoted by—

[(A) bringing to such individuals understanding and appreciation of the films and television programs that play an important part in the general and cultural advancement of hearing individuals;

[(B) providing, through those films and television programs, enriched educational and cultural experiences through which deaf and hard-of-hearing individuals can better understand the realities of their environment; and

[(C) providing wholesome and rewarding experiences that deaf and hard-of-hearing individuals may share.

[SEC. 682. PARENT TRAINING AND INFORMATION CENTERS.

[(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

[(b) REQUIRED ACTIVITIES.—Each parent training and information center that receives assistance under this section shall—

[(1) provide training and information that meets the training and information needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified;

[(2) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 615(e);

[(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

[(4) assist parents to—

[(A) better understand the nature of their children's disabilities and their educational and developmental needs;

[(B) communicate effectively with personnel responsible for providing special education, early intervention, and related services;

[(C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

[(D) obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

[(E) understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

[(F) participate in school reform activities;

[(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 615(e)(2), individuals who meet with parents to explain the mediation process to them;

[(6) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d), and with other national, State, and local organizations and agencies, such as protection and advocacy agen-

cies, that serve parents and families of children with the full range of disabilities; and

[(7) annually report to the Secretary on—

[(A) the number of parents to whom it provided information and training in the most recently concluded fiscal year; and

[(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

[(c) OPTIONAL ACTIVITIES.—A parent training and information center that receives assistance under this section may—

[(1) provide information to teachers and other professionals who provide special education and related services to children with disabilities;

[(2) assist students with disabilities to understand their rights and responsibilities under section 615(m) on reaching the age of majority; and

[(3) assist parents of children with disabilities to be informed participants in the development and implementation of the State's State improvement plan under subpart 1.

[(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

[(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

[(2) to work with community-based organizations.

[(e) DISTRIBUTION OF FUNDS.—

[(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

[(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

[(f) QUARTERLY REVIEW.—

[(1) REQUIREMENTS.—

[(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

[(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

[(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

[(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term "parent organization" means a private nonprofit organization (other than an institution of higher education) that—

[(1) has a board of directors—

[(A) the majority of whom are parents of children with disabilities;

[(B) that includes—

[(i) individuals working in the fields of special education, related services, and early intervention; and

[(ii) individuals with disabilities; and

[(C) the parent and professional members of which are broadly representative of the population to be served; or

[(2) has—

[(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

[(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

[SEC. 683. COMMUNITY PARENT RESOURCE CENTERS.

[(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

[(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

[(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

[(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

[(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

[(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 682(b);

[(3) establish cooperative partnerships with the parent training and information centers funded under section 682; and

[(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

[(c) DEFINITION.—As used is this section, the term "local parent organization" means a parent organization, as defined in section 682(g), that either—

[(1) has a board of directors the majority of whom are from the community to be served; or

[(2) has—

[(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

[(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

[SEC. 684. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

[(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 682 and 683.

[(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

[(1) effective coordination of parent training efforts;

[(2) dissemination of information;

[(3) evaluation by the center of itself;

[(4) promotion of the use of technology, including assistive technology devices and assistive technology services;

[(5) reaching underserved populations;

[(6) including children with disabilities in general education programs;

[(7) facilitation of transitions from—

[(A) early intervention services to preschool;

[(B) preschool to school; and

[(C) secondary school to postsecondary environ-ments; and

[(8) promotion of alternative methods of dispute resolution.

[SEC. 685. COORDINATED TECHNICAL ASSISTANCE AND DISSEMINATION.

[(a) IN GENERAL.—The Secretary shall, by competitively making grants or entering into contracts and cooperative agreements with eligible entities, provide technical assistance and information, through such mechanisms as institutes, Regional Resource Centers, clearinghouses, and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

[(b) SYSTEMIC TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support technical assistance activities, consistent with the objectives described in subsection (a), relating to systemic change.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Assisting States, local educational agencies, and other participants in partnerships established under subpart 1 with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities.

[(B) Promoting change through a multistate or regional framework that benefits States, local educational agencies,

and other participants in partnerships that are in the process of achieving systemic-change outcomes.

[(C) Increasing the depth and utility of information in ongoing and emerging areas of priority need identified by States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes.

[(D) Promoting communication and information exchange among States, local educational agencies, and other participants in partnerships, based on the needs and concerns identified by the participants in the partnerships, rather than on externally imposed criteria or topics, regarding—

[(i) the practices, procedures, and policies of the States, local educational agencies, and other participants in partnerships; and

[(ii) accountability of the States, local educational agencies, and other participants in partnerships for improved early intervention, educational, and transitional results for children with disabilities.

[(c) SPECIALIZED TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support activities, consistent with the objectives described in subsection (a), relating to areas of priority or specific populations.

[(2) AUTHORIZED ACTIVITIES.—Examples of activities that may be carried out under this subsection include activities that—

[(A) focus on specific areas of high-priority need that—

[(i) are identified by States, local educational agencies, and other participants in partnerships;

[(ii) require the development of new knowledge, or the analysis and synthesis of substantial bodies of information not readily available to the States, agencies, and other participants in partnerships; and

[(iii) will contribute significantly to the improvement of early intervention, educational, and transitional services and results for children with disabilities and their families;

[(B) focus on needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

[(i) to schools and agencies serving deaf-blind children and their families; and

[(ii) to programs and agencies serving other groups of children with low-incidence disabilities and their families; or

[(C) address the postsecondary education needs of individuals who are deaf or hard-of-hearing.

[(d) NATIONAL INFORMATION DISSEMINATION; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support information dissemination activities

that are consistent with the objectives described in subsection (a), including activities that address national needs for the preparation and dissemination of information relating to eliminating barriers to systemic-change and improving early intervention, educational, and transitional results for children with disabilities.

[(2) AUTHORIZED ACTIVITIES.—Examples of activities that may be carried out under this subsection include activities relating to—

[(A) infants and toddlers with disabilities and their families, and children with disabilities and their families;

[(B) services for populations of children with low-incidence disabilities, including deaf-blind children, and targeted age groupings;

[(C) the provision of postsecondary services to individuals with disabilities;

[(D) the need for and use of personnel to provide services to children with disabilities, and personnel recruitment, retention, and preparation;

[(E) issues that are of critical interest to State educational agencies and local educational agencies, other agency personnel, parents of children with disabilities, and individuals with disabilities;

[(F) educational reform and systemic change within States; and

[(G) promoting schools that are safe and conducive to learning.

[(3) LINKING STATES TO INFORMATION SOURCES.—In carrying out this subsection, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.

[(e) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[SEC. 686. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out sections 681 through 685 such sums as may be necessary for each of the fiscal years 1998 through 2002.

[SEC. 687. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

[(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).

[(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AUTHORIZED ACTIVITIES.—

[(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

[(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

[(A) Conducting research and development activities on the use of innovative and emerging technologies for children with disabilities.

[(B) Promoting the demonstration and use of innovative and emerging technologies for children with disabilities by improving and expanding the transfer of technology from research and development to practice.

[(C) Providing technical assistance to recipients of other assistance under this section, concerning the development of accessible, effective, and usable products.

[(D) Communicating information on available technology and the uses of such technology to assist children with disabilities.

[(E) Supporting the implementation of research programs on captioning or video description.

[(F) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

[(G) Demonstrating the use of publicly-funded telecommunications systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

[(c) EDUCATIONAL MEDIA SERVICES; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary shall support—

[(1) educational media activities that are designed to be of educational value to children with disabilities;

[(2) providing video description, open captioning, or closed captioning of television programs, videos, or educational materials through September 30, 2001; and after fiscal year 2001, providing video description, open captioning, or closed captioning of educational, news, and informational television, videos, or materials;

[(3) distributing captioned and described videos or educational materials through such mechanisms as a loan service;

[(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools;

[(5) providing cultural experiences through appropriate nonprofit organizations, such as the National Theater of the Deaf, that—

[(A) enrich the lives of deaf and hard-of-hearing children and adults;

[(B) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

[(C) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences; and

[(6) compiling and analyzing appropriate data relating to the activities described in paragraphs (1) through (5).

[(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.]

SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

(b) COMPOSITION.—

(1) IN GENERAL.—The council shall be composed as follows:

(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

(J) MENTAL HEALTH AGENCY.—At least one representative from the State agency responsible for children's mental health.

(K) CHILD WELFARE AGENCY.—At least one representative from the State agency responsible for child protective services.

(L) OFFICE OF THE COORDINATOR FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—At least one representative designated by the Office of the Coordinator.

(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

(e) FUNCTIONS OF COUNCIL.—

(1) DUTIES.—The council shall—

(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

SEC. 642. FEDERAL ADMINISTRATION.

Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

SEC. 643. ALLOCATION OF FUNDS.

(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

(b) PAYMENTS TO INDIANS.—

(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or

consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total number of such children served by all tribes, tribal organizations, or consortia.

(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make an annual report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) RATABLE REDUCTION.—

(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

(4) DEFINITIONS.—For the purpose of this subsection—

(A) the terms "infants" and "toddlers" mean children under 3 years of age; and

(B) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

SEC. 644. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $447,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

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

SEC. 651. FINDINGS.

The Congress finds the following:

(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations, to develop and implement comprehensive strategies that improve educational results for children with disabilities.

(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

(4) An effective educational system serving students with disabilities should—

(A) maintain high academic standards and clear achievement goals for children, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

(C) promote transition services, as described in section 602(31), and coordinate State and local education, social, health, mental health, and other services, to address the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

(5) The availability of an adequate number of qualified personnel is critical in order to serve effectively children with disabilities, fill leadership positions in administrative and direct-service capacities, provide teacher training, and conduct high-quality research to improve special education.

(6) High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

(8) Continued support is essential for the development and maintenance of a coordinated and high-quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

(9) A comprehensive research agenda should be established and pursued to promote the highest quality and rigor in research on special education and related services, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

(10) Technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

(12) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

(A) creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between such parents and schools, encouraging dispute resolution at the earliest point in time possible, and discouraging the escalation of an adversarial process between such parents and schools;

(B) ensuring the involvement of such parents in planning and decision-making with respect to early intervention, educational, and transitional services;

(C) achieving high-quality early intervention, educational, and transitional results for children with disabilities;

(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 602(31);

(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

(G) supporting those parents who may have limited access to services and supports due to economic, cultural, or linguistic barriers.

(13) Support is needed to improve technological resources and integrate technology into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

Subpart 1—State Professional Development Grants

SEC. 652. PURPOSE.

The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for professional development in early intervention, educational, and related and transition services in order to improve results for children with disabilities.

SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.

(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a period of not less than 1 year and not more than 5 years.

(b) PARTNERS.—

(1) REQUIRED PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall enter into a partnership agreement with local educational agencies, at least one institution of higher education in the State, and other State agencies involved in, or concerned with, the education of children with disabilities.

(2) OPTIONAL PARTNERS.—In addition, a State educational agency may enter into a partnership agreement with any of the following:

(A) The Governor.

(B) Parents of children with disabilities ages birth through 26.

(C) Parents of nondisabled children ages birth through 26.

(D) Individuals with disabilities.

(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

(F) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities.

(G) The lead State agency for part C.

(H) General and special education teachers, related services personnel, and early intervention personnel.

(I) The State advisory panel established under part C.

(J) The State interagency coordinating council established under part C.

(K) Institutions of higher education within the State.

(L) Individuals knowledgeable about vocational education.

(M) The State agency for higher education.

(N) The State vocational rehabilitation agency.

(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

(P) Other providers of professional development that work with students with disabilities.

(Q) Other individuals.

SEC. 654. APPLICATIONS.

(a) IN GENERAL.—

(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

(2) STATE PLAN.—The application shall include a plan that addresses the State and local needs for the professional development of administrators, principals, teachers, related services personnel, and individuals who provide direct supplementary aids and services to children with disabilities, and that—

(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965, as appropriate; and

(B) is designed to enable the State to meet the requirements of section 612(a)(15) of this Act.

(b) ELEMENTS OF STATE PLAN.—Each State plan shall—

(1) describe a partnership agreement that—

(A) specifies—

(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

(B) is in effect for the period of the grant;

(2) describe how grant funds, including part B funds retained for use at the State level under sections 611(e) and 619(d), and other Federal funds will be used to support activities conducted under this subpart;

(3) describe the strategies the State will use to implement the plan to improve results for children with disabilities, including—

(A) how the State will align its professional development plan with the plans submitted by the State under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

(B) how the State will provide technical assistance to local educational agencies and schools to improve the quality of professional development available to meet the needs of personnel that serve children with disabilities; and

(C) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the achievement goals and indicators in section 612(a)(16);

(4) describe, as appropriate, how the strategies described in paragraph (3) will be coordinated with public and private sector resources; and

(5) include an assurance that the State will use funds received under this subpart to carry out each of the activities specified in the plan.

(c) COMPETITIVE AWARDS.—

(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

(2) PRIORITY.—The Secretary may give priority to applications on the basis of need.

(d) PEER REVIEW.—

(1) IN GENERAL.—The Secretary shall evaluate applications under this subpart using a panel of experts who are qualified by virtue of their training, expertise, or experience.

(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

(e) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—

(1) describe the progress of the State in implementing its plan;

(2) analyze the effectiveness of the State's activities under this subpart and of the State's strategies for meeting its goals under section 612(a)(16); and

(3) identify any changes in such strategies needed to improve its performance.

SEC. 655. USE OF FUNDS.

(a) IN GENERAL.—

(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

(A) PROFESSIONAL DEVELOPMENT.—

(i) Carrying out programs that support the professional development of early intervention personnel, re-

lated services personnel, and both special education and regular education teachers of children with disabilities, such as programs that—

(I) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development;

(II) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965;

(III) promote collaborative and consultive models of providing special education ad related services; and

(IV) increase understanding as to the most appropriate placements and services for all students to reduce significant racial and ethnic disproportionality in eligibility, placement, and disciplinary actions.

(ii) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

(iii) Providing professional development activities that improve the knowledge of special education and regular education teachers concerning—

(I) the academic and developmental needs of students with disabilities; and

(II) effective instructional strategies, methods, and skills, use of challenging State academic content standards and student academic achievement standards, and use of State assessments, to improve teaching practices and student academic achievement.

(iv) Providing professional development activities that—

(I) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, related services personnel and paraprofessionals, concerning effective instructional practices;

(II) provide training in how to teach and address the needs of students with different learning styles;

(III) involve collaborative groups of teachers and administrators;

(IV) provide training in methods of—

(aa) positive behavior interventions and supports to improve student behavior in the classroom;

(bb) scientifically based reading instruction, including early literacy instruction; and

(cc) early and appropriate interventions to identify and help students with disabilities;

(V) provide training to enable special education and regular education teachers, related services personnel, and principals to involve parents in their child's education, especially parents of low-income and limited English proficient children with disabilities; or

(VI) train administrators and other relevant school personnel in conducting facilitated individualized education program meetings.

(v) Developing and implementing initiatives to promote retention of highly qualified special education teachers, including programs that provide—

(I) teacher mentoring from exemplary special education teachers, principals, or superintendents;

(II) induction and support for special education teachers during their first 3 years of employment as teachers; or

(III) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities improve their academic achievement.

(vi) Carrying out programs and activities that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

(I) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

(II) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(B) STATE ACTIVITIES.—

(i) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

(I) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories;

(II) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(III) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(IV) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students meet challenging State student academic achievement standards.

(ii) Carrying out programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become highly effective special education teachers, such as individuals with a baccalaureate or master's degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

(iii) Carrying out teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(iv) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

(v) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

(vi) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

(vii) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

(viii) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(ix) Developing, or assisting local educational agencies in developing, merit-based performance systems,

and strategies that provide differential and bonus pay for special education teachers.

(x) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

(xi) Coordinating with, and expanding, centers established under section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

(A) shall, consistent with its partnership agreement under section 654(b)(1), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State plan under this subpart; and

(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—

(1) not less than 90 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(A); and

(2) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

SEC. 656. STATE GRANT AMOUNTS.

(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(2) not less than $80,000, in the case of an outlying area.

(b) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

(1) the amount of funds available for making the grants;

(2) the relative population of the State or outlying area; and

(3) the types of activities proposed by the State or outlying area, including—

(A) the alignment of proposed activities with paragraphs (14) and (15) of section 612(a);

(B) the alignment of proposed activities with the plans submitted under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965; and

(C) the use, as appropriate, of scientifically based research.

SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

Subpart 2—Scientifically Based Research; Technical Assistance; Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

SEC. 661. PURPOSE.

The purpose of this subpart is to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional results for children with disabilities.

SEC. 662. ADMINISTRATIVE PROVISIONS.

(a) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than section 663) in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted under subpart 1.

(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on the plan.

(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

(4) REPORTS TO CONGRESS.—The Secretary shall annually report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 12 months after the date of the enactment of Improving Education Results for Children With Disabilities Act of 2003.

(b) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

(A) A State educational agency.

(B) A local educational agency.

(C) A public charter school that is a local educational agency under State law.

(D) An institution of higher education.

(E) Any other public agency.

(F) A private nonprofit organization.

(G) An outlying area.

(H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

(I) A for-profit organization if the Secretary finds it appropriate given the specific purpose of the competition.

(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

(c) SPECIAL POPULATIONS.—

(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

(2) REQUIRED OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for either or both of the following activities:

(A) Providing outreach and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant applicants meet the criteria established by the Secretary under this subpart.

(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rulemaking procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

(1) projects that address one or more—

(A) age ranges;

(B) disabilities;

(C) school grades;

(D) types of educational placements or early intervention environments;

(E) types of services;

(F) content areas, such as reading; or

(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

(2) projects that address the needs of children based on the severity or incidence of their disability;

(3) projects that address the needs of—

(A) low-achieving students;

(B) underserved populations;

(C) children from low-income families;

(D) children with limited English proficiency;

(E) unserved and underserved areas;

(F) rural or urban areas;

(G) children whose behavior interferes with their learning and socialization;

(H) children with intractable reading difficulties; and

(I) children in public charter schools;

(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; and

(5) any activity that is expressly authorized in this subpart or subpart 3.

(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

(A) involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project; and

(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

(A) to share in the cost of the project;

(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) to disseminate such findings and products; and

(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

(f) APPLICATION MANAGEMENT.—

(1) STANDING PANEL.—

(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than section 663) that, individually, request more than $75,000 per year in Federal financial assistance.

(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high-quality programs of personnel preparation;

(ii) individuals who design and carry out scientifically-based research targeted to the improvement of special education programs and services;

(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically-based research findings to improve educational and transitional results for children with disabilities;

(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

(viii) individuals with disabilities.

(C) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years.

(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

(A) COMPOSITION.—The Secretary shall ensure that each subpanel selected from the standing panel that reviews applications under this subpart (other than section 663) includes—

(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each subpanel that reviews an application under this subpart (other than section 663) shall be individuals who are not employees of the Federal Government.

(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

(g) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

(h) MINIMUM FUNDING REQUIRED.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

(2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES.

(a) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established, in the Institute of Education Sciences established under section 111 of the Education Sciences Reform Act of 2002 (Public Law 107–279; 116 Stat. 1944) (hereinafter in this section referred to as "the Institute"), the National Center for Special Education Research.

(B) COMMISSIONER.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research (hereinafter in this section referred to as "the Commissioner"). The Commissioner shall be appointed by the Director of the Institute (hereinafter in this section referred to as "the Director") in accordance with section 117 of the Education Sciences Reform Act of 2002. The Commissioner shall have substantial knowledge of the Center's activities, including a high level of expertise in the fields of research and research management.

(2) APPLICABILITY OF EDUCATION SCIENCE REFORM ACT OF 2002.—Parts A and E of the Education Sciences Reform Act of 2002, as well as the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134 of such Act, shall apply to the Secretary, the Director, and the Commissioner in carrying out this section.

(b) COMPETITIVE GRANTS.—The Director shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to expand the fundamental knowledge and understanding of the education of infants, toddlers, and children with disabilities in order to improve educational results for such individuals, in accordance with the priorities determined under this section.

(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include research activities—

(1) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

(2) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

(3) to examine the special needs of preschool-aged children and infants and toddlers with disabilities, including factors that may result in developmental delays;

(4) to investigate scientifically based related services and interventions that promote participation and progress in the general education curriculum;

(5) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(6) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 1111(b)(2)(B);

(7) to examine State content standards and alternate assessments for students with a significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate educational settings, and improved post-school results;

(8) to examine the educational and developmental needs of children with high-incidence and low-incidence disabilities;

(9) to examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

(10) to improve reading and literacy skills for children with disabilities;

(11) to examine and improve secondary and postsecondary education and transitional needs of children with disabilities;

(12) to examine methods of early intervention for children with disabilities who need significant levels of support;

(13) to examine universal design concepts in the development of assessments, curricula, and instructional methods as a method to improve educational results for children with disabilities;

(14) to improve the professional preparation for personnel who provide educational and related services to children with disabilities, including children with low-incidence disabilities, to increase academic achievement of children with disabilities;

(15) to examine the excess costs of educating a child with a disability and expenses associated with high-cost special education and related services; and

(16) to examine the special needs of limited English proficient children with disabilities.

(d) PLAN.—The National Center for Special Education Research shall propose to the Director a research plan, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, that—

(1) is consistent with the priorities and mission of the Institute of Educational Sciences and the mission of the Special Education Research Center and includes the activities described in paragraph (3);

(2) shall be carried out pursuant to subsection (c) and, as appropriate, be updated and modified; and

(3) carries out specific, long-term research activities that are consistent with the priorities and mission of the Institute of Educational Sciences, and are approved by the Director.

(e) IMPLEMENTATION.—The National Center for Special Education Research shall implement the plan proposed under subsection (d) to carry out scientifically valid research that—

(1) is consistent with the purposes of this Act;

(2) reflects an appropriate balance across all age ranges of children with disabilities;

(3) provides for research that is objective and that uses measurable indicators to assess its progress and results;

(4) includes both basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives;

(5) ensures that the research conducted under this section is relevant to special education practice and policy;

(6) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance as well as activities authorized under this part, the findings and results of education research conducted or supported by the National Center for Special Education Research; and

(7) assist the Director in the preparation of a biennial report, as a described in section 119 of the Education Sciences Reform Act of 2003.

(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require.

SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.

(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including regional resource centers and clearinghouses to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

(b) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965;

(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

(4) identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

(A) provide effective transitions between educational settings or from school to post school settings; and

(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

(5) demonstrating and applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) applying and testing research findings in typical service settings to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as the provision of

single-State and multi-State technical assistance and in-service training—

(A) to schools and agencies serving deaf-blind children and their families;

(B) to programs and agencies serving other groups of children with low-incidence disabilities and their families;

(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

(10) disseminating information on how to reduce racial and ethnic disproportionalities identified under section 618.

(d) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Evaluation and Regional Assistance established under the Education Sciences Reform Act.

(f) APPLICATIONS.—

(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) STANDARDS.—To the maximum extent feasible, each applicant shall demonstrate that the project described in its application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities;

(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children;

(3) to encourage increased focus on academics and core content areas in special education personnel preparation programs;

(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom;

(5) to provide high-quality professional development for principals, superintendents, and other administrators, including training in—

(A) instructional leadership;

(B) behavioral supports in the school and classroom;

(C) paperwork reduction;

(D) promoting improved collaboration between special education and general education teachers;

(E) assessment and accountability;

(F) ensuring effective learning environments; and

(G) fostering positive relationships with parents; and

(6) to ensure that all special education teachers teaching in core academic subjects are highly qualified.

(b) PERSONNEL PREPARATION; AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, including activities for high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a).

(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

(A) Promoting activities undertaken by institutions of higher education, local educational agencies, and other local entities—

(i) to improve and reform their existing programs, and to support effective existing programs, to prepare teachers and related services personnel—

(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

(II) to work collaboratively in regular classroom settings; and

(ii) to incorporate best practices and scientifically based research about preparing personnel—

(I) so they will have the knowledge and skills to improve educational results for children with disabilities; and

(II) so they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or overidentification, of children as having a disability, especially minority and limited English proficient children.

(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce shortages in personnel.

(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early

intervention, educational, and transitional results for children with disabilities.

(D) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams to improve results for children with disabilities, particularly within the general education curriculum.

(E) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

(F) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

(G) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school board members to improve results for children with disabilities.

(H) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

(I) Developing and improving programs to train special education teachers with an expertise in autism spectrum disorders.

(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing persons who—

(i) have prior training in educational and other related service fields; and

(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with low-incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low-incidence disabilities.

(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with low-incidence disabilities through early intervention, educational, and transitional services.

(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

(E) Preparing personnel who provide services to deaf and hard-of-hearing children by providing direct language and communication access to the general education curriculum through spoken or signed languages, or other modes of communication.

(F) Preparing personnel to be qualified educational interpreters, to assist children with low-incidence disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

(3) DEFINITION.—As used in this section, the term "low-incidence disability" means—

(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

(B) a significant cognitive impairment; or

(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

(e) APPLICATIONS.—

(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such

time, in such manner, and containing such information as the Secretary may require.

(2) IDENTIFIED STATE NEEDS.—

(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the project.

(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide assurances from one or more States that such States—

(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities; and

(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

(f) SELECTION OF RECIPIENTS.—

(1) Impact of project.—In selecting recipients under this section, the Secretary shall consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

(g) SERVICE OBLIGATION.—

(1) IN GENERAL.—Each application for funds under subsections (b) and (c) shall include an assurance that the appli-

cant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (d) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

(h) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

SEC. 666. STUDIES AND EVALUATIONS.

(a) IN GENERAL.—

(1) PROGRESS ASSESSMENT.—The Secretary shall, in accordance with the priorities determined under this section and in section 663, directly or through competitive grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

(A) a free appropriate public education to children with disabilities; and

(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

(2) DELEGATION.—Notwithstanding any other provision of law, the Secretary shall designate the Director of the Institute for Education Sciences to carry out this section.

(3) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support objective studies, evaluations, and assessments, including studies that—

(A) analyze issues identified in the research agenda in section 663(d);

(B) meet the standards in section 663(c); and

(C) undertake one or more of the following:

(i) An analysis of the measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

(ii) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

(iii) An assessment of educational and transitional services and results for children with disabilities from minority backgrounds, including—

(I) data on—

(aa) the number of minority children who are referred for special education evaluation;

(bb) the number of minority children who are receiving special education and related services and their educational or other service placement;

(cc) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

(dd) the number of minority children who drop out of the educational system without a regular diploma; and

(II) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students.

(iv) A measurement of educational and transitional services and results of children with disabilities served under this Act, including longitudinal studies that—

(I) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

(II) examine educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.

(v) An identification and report on the placement of children with disabilities by disability category.

(b) NATIONAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

(A) to determine the effectiveness of this Act in achieving its purposes;

(B) to provide timely information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

(2) PUBLIC COMMENT.—

(A) PLAN.—Not later than 12 months after the date of enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall publish in the Federal Register for public comment a comprehensive plan for developing and conducting the national assessment.

(B) COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 30 days on such plan.

(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the—

(A) implementation of programs assisted under this Act and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable them to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

(C) implementation of the professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

(D) effectiveness of schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary in achieving the purposes of this Act by—

(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

(ii) improving the participation of children with disabilities in the general education curriculum;

(iii) improving the transitions of children with disabilities at natural transition points;

(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

(vi) addressing the reading and literacy needs of children with disabilities;

(vii) reducing the overidentification of children, especially minority and limited English proficient children, as having a disability;

(viii) improving the participation of parents of children with disabilities in the education of their children; and

(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including mediation and voluntary binding arbitration.

(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

(A) an interim report that summarizes the preliminary findings of the assessment not later than 30 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003; and

(B) a final report of the findings of the assessment not later than 5 years after the date of the enactment of such Act.

(c) ANNUAL REPORT.—The Secretary shall provide an annual report to the Congress that—

(1) summarizes the research conducted under section 663;

(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

(4) describes the extent and progress of the national assessment; and

(5) describes the findings and determinations resulting from reviews of State implementation of this Act.

SEC. 667. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out sections 663, 664, and 666 $171,861,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out section 665 $90,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

Subpart 3—Supports To Improve Results for Children With Disabilities

SEC. 671. PURPOSES.

The purposes of this subpart are to ensure that—

(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services;

(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.

(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

(b) REQUIRED ACTIVITIES.—Each parent and community training and information center that receives assistance under this section shall—

(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, including underserved parents and parents of chil-

dren who may be inappropriately identified, to enable children with disabilities—

(A) to meet developmental and challenging academic achievement goals that have been established for all children; and

(B) to be prepared to lead productive independent adult lives to the maximum extent possible;

(2) ensure that the training and information provided meets the needs of low-income parents and parents of children with limited English proficiency;

(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

(4) assist parents—

(A) to better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

(B) to communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention, transition services, and related services;

(C) to participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

(D) to obtain appropriate information about the range, type and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home;

(E) to understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

(F) to participate in activities at the school level which benefit their children;

(5) assist parents in resolving disputes in the most expeditious way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the use of individualized education program facilitators and mediation and voluntary binding arbitration processes described in section 615(e);

(6) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

(7) network with appropriate clearinghouses, including organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

(8) annually report to the Secretary on—

(A) the number and demographics of parents to whom it provided information and training in the most recently concluded fiscal year; and

(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

(c) OPTIONAL ACTIVITIES.—A parent training and community and information center that receives assistance under this section may—

(1) provide information to teachers and other professionals to assist them in improving results for children with disabilities; and

(2) assist students with disabilities to understand their rights and responsibilities under section 615(l) on reaching the age of majority.

(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

(2) to work with community-based organizations, including those that work with low-income parents and parents of children with limited English proficiency.

(e) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

(f) QUARTERLY REVIEW.—

(1) REQUIREMENTS.—

(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term "parent organization" means a private nonprofit organization (other than an institution of higher education) that—

(1) has a board of directors—

(A) the majority of whom are parents of children with disabilities ages birth through 26;

(B) that includes—

(i) individuals working in the fields of special education, related services, and early intervention; and

(ii) individuals with disabilities; and

(C) the parent and professional members of which are broadly representative of the population to be served, including low-income and limited English proficient parents of children with disabilities; or

(2) has—

(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.

(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b);

(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and

(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

(c) DEFINITION.—As used is this section, the term "local parent organization" means a parent organization, as defined in section 672(g), that either—

(1) has a board of directors the majority of whom are from the community to be served; or

(2) has—

(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities (as defined in section 662(b)), provide technical assistance for developing, assisting, and coordinating parent train-

ing and information programs carried out by parent training and information centers receiving assistance under sections 672 and 673.

(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

(1) effective coordination of parent training efforts;

(2) dissemination of scientifically based research and information;

(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

(5) including children with disabilities in general education programs;

(6) facilitation of transitions from—

(A) early intervention services to preschool;

(B) preschool to elementary school;

(C) elementary school to secondary school; and

(D) secondary school to postsecondary environments; and

(7) promotion of alternative methods of dispute resolution, including mediation and voluntary binding arbitration.

SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities (as defined in section 662(b)) to support activities described in subsections (b) and (c).

(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:

(A) Conducting research on, and promoting the demonstration and use of—

(i) innovative and emerging technologies for children with disabilities; and

(ii) improved transfer of technology from research and development to practice.

(B) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

(D) Supporting the implementation of research programs.

(E) Communicating information on available technology and the uses of such technology to assist children with disabilities.

(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—In carrying out this section, the Secretary may support—

(1) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

(2) providing video description, open captioning, or closed captioning of television programs, videos, or other materials with an education-based content for use in the classroom setting when such services are not provided by the producer or distributor of such information, including programs and materials associated with new and emerging technologies such as CDs, DVDs, video streaming, and other forms of multimedia;

(3) distributing materials described in paragraphs (1) and (2) through such mechanisms as a loan service; and

(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.

(d) APPLICATIONS.—Any eligible entity (as defined in section 662(b)) that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. For purposes of subsection (c)(4), such entity shall—

(1) be a national, nonprofit entity with a track record of meeting the needs of students with print disabilities through services described in paragraph (4);

(2) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

(3) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 674 $32,710,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out sections 672 and 673 $26,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

MINORITY VIEWS

INTRODUCTION

The Committee reported a bill reauthorizing the Individuals with Disabilities Education Act (IDEA) that takes a giant step backward for children with disabilities and the schools that serve them. The bill does this by reneging on Congress' 28-year commitment to fully fund special education; eviscerating due process and discipline protections for children with disabilities, including restrictions on the ability of parents to seek legal representation when a violation of IDEA has occurred; failing to improve monitoring, enforcement, and implementation; and reducing protections for children with disabilities in the name of paperwork reduction.

Prior to the passage of the Education of all Handicapped Children Act (IDEA's predecessor) in 1975, many children with disabilities did not receive access to an education, and worse were denied any educational services at all. As a result of court decisions and Congressional action, schools were required to offer children with disabilities a free appropriate public education (FAPE). The provision of FAPE requires school districts to provide educational and related services necessary for children with disabilities to benefit from an education. The statutory requirement for FAPE was coupled with due process rights for parents of children with disabilities.

FAPE and due process rights have served as the foundation of IDEA. Unfortunately, H.R. 1350 has never been the subject of a hearing and has had very little public debate and input. Rather than rush this bill through the legislative process, we should be carefully considering the impact of proposed changes on the education of children with disabilities.

Full Funding of Special Education

The Committee reported bill actually reneges on Congress' commitment to fully fund special education.[1] Congress has promised this to school districts for 28 years. Congress has passed 22 bills and resolutions calling for full funding, many of these in the last seven years, but has never provided the required 40 percent. In addition, President Bush has requested a $1 billion increase for the last 2 budget cycles for the IDEA State grant program. At this rate of increase, Congress will never reach full funding—topping out at 34 percent of excess cost.

Rather than provide guaranteed resources through mandatory spending, as favored by Democratic Members, this bill caps the amount of funding that can be provided in any given year. The Committee reported bill would set annual caps on the amount that

[1] Part B of IDEA commits to providing 40% of the cost of educating children with disabilities. This 40% figure is often referred to as "full funding" of IDEA.

can be provided through discretionary appropriations. Under this construct, the Appropriations Committee would be constrained in reaching full funding.

Although we were very pleased that the Committee vote to increase the authorization for the Part B Grants to States program by $4.7 billion over two years, we are disappointed that the Woolsey-Van Hollen-McCollum amendment to make IDEA funding mandatory was defeated by the Committee on a party line vote. Unless funding is mandatory, authorization levels have little impact. Discretionary funding leaves IDEA competing for money with many other well deserving discretionary programs. In light of the failure of the Bush Administration and the Congressional Republican Leadership to fully fund the No Child Left Behind Act (NCLB), we should ensure that IDEA funding is mandatory.

It was even more difficult to understand why several members on the Majority side did not support mandatory funding for IDEA. Six current Members on the Republican side of the Committee were co-sponsors of mandatory full funding IDEA bills in the 107th Congress. In fact, the text of H.R. 737 from the 107th Congress, a bill introduced by Representative Bass (R–NH), was also offered as an amendment to H.R. 1350 in order to give Republican Members the opportunity to vote on the exact bill they had cosponsored. Unfortunately, again, it was defeated on a party line vote.

Discipline

Of paramount importance among the protections in current law for children with disabilities, are those governing the discipline of children with disabilities. H.R. 1350 completely eviscerates those provisions and brings us back to the time when children with disabilities could be removed from the classroom or worse, refused a public education simply because they had disabilities.

Current law allows a school to suspend or expel a student with disabilities if he or she brings a weapon or drugs to school, or is found by a hearing officer to be likely to injure themselves or others. Education services must be provided for up to 45 days in an alternative setting. In addition, current law requires schools to determine if the infraction which caused the student to be suspended or expelled was a manifestation of his or her disability.

Even with these protections in current law, students with disabilities remain over-represented among students who are expelled from school. In addition, and possibly most troubling, children with disabilities who are minorities are significantly more likely to be suspended or expelled from school, than their majority peers. Despite these issues, H.R. 1350 eliminates almost all of the discipline protections in current law.

H.R. 1350 allows a school to suspend or expel a student with disabilities for any violation of a code of student conduct. A review of the codes of student conduct in schools across the country reveals them to be very sweeping. Depending on the school district, students can violate a code of student conduct for reasons such as coming to class late, loitering in the hall or on school property, or by not being neat and clean in person and attire. One code of student conduct requires students to keep the floor areas near his or her desk and locker free from litter.

This means that a student with Tourette's Syndrome who shouts out in class could be suspended or expelled. A student who lacks motor control and spills food or drink on himself could be suspended or expelled. Wearing shorts instead of long pants or not keeping the floor clean could also be reasons to remove a child with disabilities from school.

While the majority of schools would not dismiss a student for minor infractions of the code of conduct, IDEA was written for the very purpose of protecting students with disabilities. If every school eagerly embraced the education of students with disabilities, there would be no need for court cases, no need for IDEA. Unfortunately, that is not the case.

Once a student with disabilities is suspended or dismissed, H.R. 1350 makes it possible for the student to remain out of school for an indefinite period of time, depending on State law or regulation regarding the student's misconduct. A student could miss an entire semester, something from which it is difficult for any student to recover.

H.R. 1350 also eliminates the requirement that schools determine if the student's misconduct was a manifestation of his or her disability. Removing manifestation determinations and the requirements in current law regarding functional behavior assessments and behavioral intervention plans denies students with disabilities access to the most appropriate educational services and puts them at significantly greater risk for dropping out of school. Since the link between school dropouts and juvenile delinquency has been well proven, it is foolhardy to promote a federal policy that will lead to increases in juvenile delinquency.

Procedural Safeguards

H.R. 1350 makes significant changes to the due process rights that parents have in current law. Children with disabilities each have individual needs in order to take full advantage of educational opportunities. The due process procedures in IDEA are the only recourse parents have if they believe a school is not providing the services and support their child needs in order to learn.

H.R. 1350 gives parents only one year to exercise their due process rights after a violation under IDEA had occurred. Current law has no time limitation. Although we understand the need that schools have for some type of closure regarding their possible liability, one year is much too short. It is not unusual for parents to take a full year to realize the nature of their child's disability and to come to a full understanding of that child's needs. Parents should have at least three years in which to begin the complaint process if they do not think their child is being properly served under IDEA.

Once the due process procedure is under way, H.R. 1350 again imposes unreasonable limitations on the rights of parents. It prohibits parents from raising any issues at the due process hearing that were not raised in their original complaint, or brought up prior to the hearing. There are many reasons why parents might obtain new information just prior to the due process hearing which would have great bearing on their child's educational success. Certainly a hearing officer should be able to hear any issues the par-

ents feel are pertinent to their child's ability to benefit from his or her educational setting and services, and make the decision as to whether or not an issue should be considered at the hearing.

In addition, H.R. 1350 imposes a new restriction on the freedom of hearing officers to make their own decisions. Under H.R. 1350, hearing officers are required to make their determination based only on whether or not a child has received a free and appropriate public education (FAPE). Although FAPE is certainly the key measure of a child's rights under IDEA, it is not the only measure. There may be other issues, including procedural issues, which affect children with disabilities and the hearing officer should be free to base his or her decision on whatever is relevant to the issues raised at the due process hearing.

During the full Committee mark-up, a provision was added to H.R. 1350 which would give Governors the authority to determine the reimbursement rates for attorneys who represent parents at IDEA due process proceedings. There is no question that this will limit access to knowledgeable and experienced legal representation by the people who need it the most—low income, inexperienced parents seeking to obtain the best education for their children with disabilities. This language should be removed from H.R. 1350.

Failure To Improve Monitoring, Enforcement, and Implementation

As with any law that is protecting the rights of a vulnerable population, IDEA needs strong monitoring and enforcement to be effective. Yet H.R. 1350 fails in this regard. Rather than statutorily authorize a monitoring and enforcement system that would ensure compliance with key provisions of the Act—child find, least restrictive environment, etc.—the Act duplicates the accountability system under the No Child Left Behind Act. In addition, the bill only provides for an accountability focus at the State level, failing to ensure that monitoring and enforcement takes place at the school district level.

One improvement that we are looking for as we review IDEA are ways to reduce litigation. Strong monitoring and enforcement provisions are key to keeping states and school districts out of court. We know that few, if any, states and school districts deliberately flout IDEA. Unfortunately, often the only way a school district's lack of compliance is discovered is when a parent pursues litigation. Strong monitoring and enforcement by the federal government and States provides for an opportunity to correct problems before families have to bring suit to get the services they are entitled to under law.

Reducing Protections for Children With Disabilities Through Paperwork Reduction

H.R. 1350 includes a pilot program that would allow ten states to submit plans to the Secretary of Education to reduce IDEA paperwork. We certainly agree that reduced paperwork is necessary. Teachers and support personnel should be able to focus their time and energies on actually working with children with disabilities. However, some paperwork is crucial to ensure IDEA's requirements are met.

The paperwork reduction pilot program in H.R. 1350 has absolutely no restrictions on what paperwork could be waived. Under this program as it is currently written, a state could propose to waive IEPs or due process notices as a way of reducing paperwork. Such broad discretion will only harm efforts to improve services for children with disabilities.

Amendments

Due to the overwhelming number of problems with this legislation, Democratic Members offered a series of amendments. Below is a description of these amendments and how the Committee acted upon them.

Ms. Woolsey, Mr. Van Hollen and Ms. McCollum offered an amendment to fully fund IDEA over a six year period by providing yearly mandatory spending increases of an additional $2.5 billion above the current level of discretionary funding. This amendment was defeated on a party line vote.

Ms. Woolsey, Mr. Van Hollen and Ms. McCollum offered another mandatory full funding amendment. This amendment included the exact text of a bipartisan mandatory full funding bill from the 107th Congress—H.R. 737, introduced by Representative Bass. Despite the fact that this legislation had 76 bipartisan cosponsors, including 6 Republican Members of this Committee, the amendment was defeated on a party line vote.

Mr. Tierney offered an amendment to restore the requirement for school districts to conduct a manifestation determination when a disciplinary action against a child with a disability is taken, including suspension or expulsion. As described above, this amendment, while not solving all problems with the discipline changes sought by H.R. 1350, is a critical component of the discipline protections for children with disabilities. Without a manifestation review, school districts will not be able to determine whether a child's actions are a result of his or her disability. This translates into punishing disabled children for behavior that is a result of their disability. Despite the fairness of the Tierney amendment, it was defeated on a party line vote.

Mr. Owens offered an amend to restore the Community Parent Resource Center program. This program, which was eliminated by the base bill, provides technical assistance and resources to parents of children with disabilities who are minorities. Long a forgotten population, children with disabilities who are minorities often face steeper challenges in securing appropriate services under IDEA. Fortunately, this amendment was adopted by voice vote, marking one of the few successes in this markup for Democratic Members.

Mr. Griljalva offered two amendments that would have strengthened data collection and services for children with disabilities who are limited English proficient. Mr. Griljalva's first amendment would have required the data collected by States under IDEA to include information on limited English proficient children. In addition, this amendment would have expanded the scope of the Secretary's ability to assess the education and transitional services offered to children with disabilities who are limited English proficient. This amendment was withdrawn with a commitment by the

Majority to work on addressing these priorities prior to floor action on the bill.

Mr. Griljalva's second amendment would have ensured that the cultural and linguistic needs of children with disabilities who are limited English proficient were also addressed. This included a focus on ensuring that evaluation procedures and assessments and professional development opportunities are linguistically and culturally appropriate. This amendment was also withdrawn with a commitment by the Majority to work on addressing these priorities prior to floor action on the bill.

Mr. Wu offered an amendment to establish a new professional development program to ensure that professional development activities provide training in appropriate and early interventions to ensure identification of children with disabilities. This amendment was withdrawn with a commitment by the Majority to work on addressing these priorities prior to floor action on the bill.

Mr. Hinojosa offered several amendments to improve services for children with disabilities who are limited English proficient. The first amendment required the General Accounting Office to study how limited English proficient children are being served under IDEA. The second amendment expanded the areas of research under IDEA to include the special needs of limited English proficient students. The third amendment required school districts to cooperate with the migrant records transfer system established under the Elementary and Secondary Education Act. These amendments were accepted by voice vote.

Mr. Van Hollen offered an amendment to fully fund the No Child Left Behind Act (NCLB). With full funding of NCLB, schools would have significantly increased IDEA funds to help children with disabilities obtain their education. That amendment was also defeated on a party line vote.

Mr. Tierney and Mr. McCarthy offered an amendment to add "school nursing services" to the definition of "related services" under IDEA. This amendment was withdrawn with a commitment by the Majority to work on addressing these priorities prior to floor action on the bill.

Ms. Majette offered an amendment to require GAO to study the variation of State definitions and evaluation processes for the categories of "specific learning disability," "emotional disturbance," and "other health impairment." This amendment was accepted by voice vote.

Mr. Ryan offered an amendment to add the following services to the lists of services covered by the term "related services"; interpretation services, captioning services, CART services, and auditory-verbal therapy services. This amendment was withdrawn with a commitment by the Majority to work on addressing these priorities prior to floor action on the bill.

Ms. Susan Davis offered several amendments designed to address various issues in the bill. Two of these amendments were accepted. The amendments that were accepted would (1) remove the requirement for the IEP team to do a reevaluation upon graduation unless the IEP team was in disagreement; and (2) ensure that simply screening a child who has not yet been identified for services

by a teacher or specialist doesn't constitute an evaluation under the Act.

Ms. Susan Davis also offered several other amendments that were withdrawn. The first amendment that would have required a State agency to reimburse a local educational agency that pays for services that otherwise would have paid for by another public agency in the State. This amendment was withdrawn when the Chairman, commenting that there was ongoing discussion about how best to seek reimbursement from other agencies, offered to work with her before the bill went to the floor. The second amendment would have mandated that parents go through mediation prior to receiving a due process hearing. The third amendment would have redefined the term "free appropriate public education" (FAPE). In redefining the term, the amendment would require special education and related services to be calculated to enable a child to access the general curriculum.

CONCLUSION

The vast majority of schools welcome children with disabilities as an integral part of their student body and work with parents, teachers, medical practitioners and support service personnel to provide these students with an appropriate education. Unfortunately, there continue to be children with disabilities who are denied the education they need, the education they deserve and are entitled to by law.

If H.R. 1350 becomes law, children with disabilities will be left far behind. H.R. 1350 does nothing to guarantee that the federal government will keep its commitment to fund forty percent of the Part B Grants to States. It does not address the shortage of qualified special education teachers in any meaningful way. Unqualified or under-qualified special education teachers are currently teaching more than 600,000 children with disabilities. And, by dramatically weakening both the discipline protections and due process rights in current law, H.R. 1350 makes it more likely that students with disabilities will be turned away from their neighborhood schools and segregated in alternative education settings that will lead them to drop out of school.

Students with disabilities make valuable contributions to their schools. Every student, both those with disabilities and those without, benefit when students with disabilities are educated alongside their peers. H.R. 1350 undermines the civil rights of students with disabilities and should not become law.

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