

105TH CONGRESS  
1ST SESSION

# H. R. 5

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IN THE SENATE OF THE UNITED STATES

MAY 13, 1997

Received

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## AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Individuals with Dis-  
3 abilities Education Act Amendments of 1997”.

4 **TITLE I—AMENDMENTS TO THE**  
5 **INDIVIDUALS WITH DISABIL-**  
6 **ITIES EDUCATION ACT**

7 **SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DIS-**  
8 **ABILITIES EDUCATION ACT.**

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

12 **“PART A—GENERAL PROVISIONS**

13 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**  
14 **PURPOSES.**

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

17 “(b) **TABLE OF CONTENTS.**—The table of contents  
18 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 appropria-  
tions.

“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.

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

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

10 “(2) Before the date of the enactment of the  
11 Education for All Handicapped Children Act of  
12 1975 (Public Law 94–142)—

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

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

1           “(C) 1,000,000 of the children with dis-  
2           abilities in the United States were excluded en-  
3           tirely from the public school system and did not  
4           go through the educational process with their  
5           peers;

6           “(D) there were many children with dis-  
7           abilities throughout the United States partici-  
8           pating in regular school programs whose dis-  
9           abilities prevented such children from having a  
10          successful educational experience because their  
11          disabilities were undetected; and

12          “(E) because of the lack of adequate serv-  
13          ices within the public school system, families  
14          were often forced to find services outside the  
15          public school system, often at great distance  
16          from their residence and at their own expense.

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

24          “(4) However, the implementation of this Act  
25          has been impeded by low expectations, and an insuf-

1       efficient focus on applying replicable research on prov-  
2       en methods of teaching and learning for children  
3       with disabilities.

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

7                       “(A) having high expectations for such  
8       children and ensuring their access in the gen-  
9       eral curriculum to the maximum extent pos-  
10      sible;

11                      “(B) strengthening the role of parents and  
12      ensuring that families of such children have  
13      meaningful opportunities to participate in the  
14      education of their children at school and at  
15      home;

16                      “(C) coordinating this Act with other local,  
17      educational service agency, State, and Federal  
18      school improvement efforts in order to ensure  
19      that such children benefit from such efforts and  
20      that special education can become a service for  
21      such children rather than a place where they  
22      are sent;

23                      “(D) providing appropriate special edu-  
24      cation and related services and aids and sup-

1 ports in the regular classroom to such children,  
2 whenever appropriate;

3 “(E) supporting high-quality, intensive  
4 professional development for all personnel who  
5 work with such children in order to ensure that  
6 they have the skills and knowledge necessary to  
7 enable them—

8 “(i) to meet developmental goals and,  
9 to the maximum extent possible, those  
10 challenging expectations that have been es-  
11 tablished for all children; and

12 “(ii) to be prepared to lead produc-  
13 tive, independent, adult lives, to the maxi-  
14 mum extent possible;

15 “(F) providing incentives for whole-school  
16 approaches and pre-referral intervention to re-  
17 duce the need to label children as disabled in  
18 order to address their learning needs; and

19 “(G) focusing resources on teaching and  
20 learning while reducing paperwork and require-  
21 ments that do not assist in improving edu-  
22 cational results.

23 “(6) While States, local educational agencies,  
24 and educational service agencies are responsible for  
25 providing an education for all children with disabil-

1 ities, it is in the national interest that the Federal  
2 Government have a role in assisting State and local  
3 efforts to educate children with disabilities in order  
4 to improve results for such children and to ensure  
5 equal protection of the law.

6 “(7)(A) The Federal Government must be re-  
7 sponsive to the growing needs of an increasingly  
8 more diverse society. A more equitable allocation of  
9 resources is essential for the Federal Government to  
10 meet its responsibility to provide an equal edu-  
11 cational opportunity for all individuals.

12 “(B) America’s racial profile is rapidly chang-  
13 ing. Between 1980 and 1990, the rate of increase in  
14 the population for white Americans was 6 percent,  
15 while the rate of increase for racial and ethnic mi-  
16 norities was much higher: 53 percent for Hispanics,  
17 13.2 percent for African-Americans, and 107.8 per-  
18 cent for Asians.

19 “(C) By the year 2000, this Nation will have  
20 275,000,000 people, nearly one of every three of  
21 whom will be either African-American, Hispanic,  
22 Asian-American, or American Indian.

23 “(D) Taken together as a group, minority chil-  
24 dren are comprising an ever larger percentage of  
25 public school students. Large-city school populations

1 are overwhelmingly minority, for example: for fall  
2 1993, the figure for Miami was 84 percent; Chicago,  
3 89 percent; Philadelphia, 78 percent; Baltimore, 84  
4 percent; Houston, 88 percent; and Los Angeles, 88  
5 percent.

6 “(E) Recruitment efforts within special edu-  
7 cation must focus on bringing larger numbers of mi-  
8 norities into the profession in order to provide ap-  
9 propriate practitioner knowledge, role models, and  
10 sufficient manpower to address the clearly changing  
11 demography of special education.

12 “(F) The limited English proficient population  
13 is the fastest growing in our Nation, and the growth  
14 is occurring in many parts of our Nation. In the Na-  
15 tion’s 2 largest school districts, limited English stu-  
16 dents make up almost half of all students initially  
17 entering school at the kindergarten level. Studies  
18 have documented apparent discrepancies in the levels  
19 of referral and placement of limited English pro-  
20 ficient children in special education. The Depart-  
21 ment of Education has found that services provided  
22 to limited English proficient students often do not  
23 respond primarily to the pupil’s academic needs.  
24 These trends pose special challenges for special edu-  
25 cation in the referral, assessment, and services for

1 our Nation's students from non-English language  
2 backgrounds.

3 “(8)(A) Greater efforts are needed to prevent  
4 the intensification of problems connected with  
5 mislabeling and high dropout rates among minority  
6 children with disabilities.

7 “(B) More minority children continue to be  
8 served in special education than would be expected  
9 from the percentage of minority students in the gen-  
10 eral school population.

11 “(C) Poor African-American children are 2.3  
12 times more likely to be identified by their teacher as  
13 having mental retardation than their white counter-  
14 part.

15 “(D) Although African-Americans represent 16  
16 percent of elementary and secondary enrollments,  
17 they constitute 21 percent of total enrollments in  
18 special education.

19 “(E) The drop-out rate is 68 percent higher for  
20 minorities than for whites.

21 “(F) More than 50 percent of minority students  
22 in large cities drop out of school.

23 “(9)(A) The opportunity for full participation  
24 in awards for grants and contracts; boards of orga-  
25 nizations receiving funds under this Act; and peer

1 review panels; and training of professionals in the  
2 area of special education by minority individuals, or-  
3 ganizations, and historically black colleges and uni-  
4 versities is essential if we are to obtain greater suc-  
5 cess in the education of minority children with dis-  
6 abilities.

7 “(B) In 1993, of the 915,000 college and uni-  
8 versity professors, 4.9 percent were African-Amer-  
9 ican and 2.4 percent were Hispanic. Of the  
10 2,940,000 teachers, prekindergarten through high  
11 school, 6.8 percent were African-American and 4.1  
12 percent were Hispanic.

13 “(C) Students from minority groups comprise  
14 more than 50 percent of K–12 public school enroll-  
15 ment in seven States yet minority enrollment in  
16 teacher training programs is less than 15 percent in  
17 all but six States.

18 “(D) As the number of African-American and  
19 Hispanic students in special education increases, the  
20 number of minority teachers and related service per-  
21 sonnel produced in our colleges and universities con-  
22 tinues to decrease.

23 “(E) Ten years ago, 12 percent of the United  
24 States teaching force in public elementary and sec-  
25 ondary schools were members of a minority group.

1 Minorities comprised 21 percent of the national pop-  
2 ulation at that time and were clearly underrep-  
3 resented then among employed teachers. Today, the  
4 elementary and secondary teaching force is 13 per-  
5 cent minority, while one-third of the students in  
6 public schools are minority children.

7 “(F) As recently as 1991, historically black col-  
8 leges and universities enrolled 44 percent of the Af-  
9 rican-American teacher trainees in the Nation. How-  
10 ever, in 1993, historically black colleges and univer-  
11 sities received only 4 percent of the discretionary  
12 funds for special education and related services per-  
13 sonnel training under this Act.

14 “(G) While African-American students con-  
15 stitute 28 percent of total enrollment in special edu-  
16 cation, only 11.2 percent of individuals enrolled in  
17 preservice training programs for special education  
18 are African-American.

19 “(H) In 1986–87, of the degrees conferred in  
20 education at the B.A., M.A., and Ph.D. levels, only  
21 6, 8, and 8 percent, respectively, were awarded to  
22 African-American or Hispanic students.

23 “(10) Minorities and underserved persons are  
24 socially disadvantaged because of the lack of oppor-  
25 tunities in training and educational programs,

1 undergirded by the practices in the private sector  
2 that impede their full participation in the main-  
3 stream of society.

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

5 “(1)(A) to ensure that all children with disabil-  
6 ities have available to them a free appropriate public  
7 education that emphasizes special education and re-  
8 lated services designed to meet their unique needs  
9 and prepare them for employment and independent  
10 living;

11 “(B) to ensure that the rights of children with  
12 disabilities and parents of such children are pro-  
13 tected; and

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

17 “(2) to assist States in the implementation of  
18 a statewide, comprehensive, coordinated, multidisci-  
19 plinary, interagency system of early intervention  
20 services for infants and toddlers with disabilities and  
21 their families;

22 “(3) to ensure that educators and parents have  
23 the necessary tools to improve educational results for  
24 children with disabilities by supporting systemic-  
25 change activities; coordinated research and personnel

1 preparation; coordinated technical assistance, dis-  
2 semination, and support; and technology develop-  
3 ment and media services; and

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

6 **“SEC. 602. DEFINITIONS.**

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

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

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

20 “(A) the evaluation of the needs of such  
21 child, including a functional evaluation of the  
22 child in the child’s customary environment;

23 “(B) purchasing, leasing, or otherwise pro-  
24 viding for the acquisition of assistive technology  
25 devices by such child;

1           “(C) selecting, designing, fitting, customiz-  
2           ing, adapting, applying, maintaining, repairing,  
3           or replacing of assistive technology devices;

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

9           “(E) training or technical assistance for  
10          such child, or, where appropriate, the family of  
11          such child; and

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

18          “(3) CHILD WITH A DISABILITY.—

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

21                         “(i) with mental retardation, hearing  
22                         impairments (including deafness), speech  
23                         or language impairments, visual impair-  
24                         ments (including blindness), serious emo-  
25                         tional disturbance (hereinafter referred to

1 as ‘emotional disturbance’), orthopedic im-  
2 pairments, autism, traumatic brain injury,  
3 other health impairments, or specific learn-  
4 ing disabilities; and

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

7 “(B) CHILD AGED 3 THROUGH 9.—The  
8 term ‘child with a disability’ for a child aged 3  
9 through 9 may, at the discretion of the State  
10 and the local educational agency, include a  
11 child—

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

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

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

24 “(A) means a regional public multiservice  
25 agency—

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

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

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

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

17          “(6) EQUIPMENT.—The term ‘equipment’ in-  
18          cludes—

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

23                 “(B) all other items necessary for the  
24                 functioning of a particular facility as a facility  
25                 for the provision of educational services, includ-

1           ing items such as instructional equipment and  
2           necessary furniture; printed, published, and  
3           audio-visual instructional materials; tele-  
4           communications, sensory, and other techno-  
5           logical aids and devices; and books, periodicals,  
6           documents, and other related materials.

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

14                 “(A) amounts received—

15                         “(i) under part B of this title;

16                         “(ii) under part A of title I of the El-  
17                         ementary and Secondary Education Act of  
18                         1965; or

19                         “(iii) under part A of title VII of that  
20                         Act; and

21                 “(B) any State or local funds expended for  
22                 programs that would qualify for assistance  
23                 under any of those parts.

24           “(8) FREE APPROPRIATE PUBLIC EDU-  
25          CATION.—The term ‘free appropriate public edu-

1 cation’ means special education and related services  
2 that—

3 “(A) have been provided at public expense,  
4 under public supervision and direction, and  
5 without charge;

6 “(B) meet the standards of the State edu-  
7 cational agency;

8 “(C) include an appropriate preschool, ele-  
9 mentary, or secondary school education in the  
10 State involved; and

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

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

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

22 “(11) INDIVIDUALIZED EDUCATION PRO-  
23 GRAM.—The term ‘individualized education program’  
24 or ‘IEP’ means a written statement for each child

1 with a disability that is developed, reviewed, and re-  
2 vised in accordance with section 614(d).

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

6 “(13) INFANT OR TODDLER WITH A DISABIL-  
7 ITY.—The term ‘infant or toddler with a disability’  
8 has the meaning given such term in section 632.

9 “(14) INSTITUTION OF HIGHER EDUCATION.—  
10 The term ‘institution of higher education’—

11 “(A) has the meaning given that term in  
12 section 1201(a) of the Higher Education Act of  
13 1965; and

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

18 “(15) LOCAL EDUCATIONAL AGENCY.—

19 “(A) The term ‘local educational agency’  
20 means a public board of education or other pub-  
21 lic authority legally constituted within a State  
22 for either administrative control or direction of,  
23 or to perform a service function for, public ele-  
24 mentary or secondary schools in a city, county,  
25 township, school district, or other political sub-

1 division of a State, or for such combination of  
2 school districts or counties as are recognized in  
3 a State as an administrative agency for its pub-  
4 lic elementary or secondary schools.

5 “(B) The term includes—

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

8 “(ii) any other public institution or  
9 agency having administrative control and  
10 direction of a public elementary or second-  
11 ary school.

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

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

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

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

18           “(19) PARENT.—The term ‘parent’—

19                   “(A) includes a legal guardian; and

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

1           “(20) PARENT ORGANIZATION.—The term ‘par-  
2           ent organization’ has the meaning given that term in  
3           section 682(g).

4           “(21) PARENT TRAINING AND INFORMATION  
5           CENTER.—The term ‘parent training and informa-  
6           tion center’ means a center assisted under section  
7           682 or 683.

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

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

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

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

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

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

12 “(B) instruction in physical education.

13 “(26) SPECIFIC LEARNING DISABILITY.—

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

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

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

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

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

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

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

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

12                  “(B) is based upon the individual student’s  
13                  needs, taking into account the student’s pref-  
14                  erences and interests; and

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

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

22           “(a) ESTABLISHMENT.—There shall be, within the  
23   Office of Special Education and Rehabilitative Services in  
24   the Department of Education, an Office of Special Edu-  
25   cation Programs, which shall be the principal agency in

1 such Department for administering and carrying out this  
2 Act and other programs and activities concerning the edu-  
3 cation of children with disabilities.

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

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

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

15 “(a) IN GENERAL.—A State shall not be immune  
16 under the eleventh amendment to the Constitution of the  
17 United States from suit in Federal court for a violation  
18 of this Act.

19 “(b) REMEDIES.—In a suit against a State for a vio-  
20 lation of this Act, remedies (including remedies both at  
21 law and in equity) are available for such a violation to  
22 the same extent as those remedies are available for such  
23 a violation in the suit against any public entity other than  
24 a State.

1       “(c) EFFECTIVE DATE.—Subsections (a) and (b)  
2 apply with respect to violations that occur in whole or part  
3 after the date of the enactment of the Education of the  
4 Handicapped Act Amendments of 1990.

5       **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**  
6                               **OR ALTERATION OF FACILITIES.**

7       “(a) IN GENERAL.—If the Secretary determines that  
8 a program authorized under this Act would be improved  
9 by permitting program funds to be used to acquire appro-  
10 priate equipment, or to construct new facilities or alter  
11 existing facilities, the Secretary is authorized to allow the  
12 use of those funds for those purposes.

13       “(b) COMPLIANCE WITH CERTAIN REGULATIONS.—  
14 Any construction of new facilities or alteration of existing  
15 facilities under subsection (a) shall comply with the re-  
16 quirements of—

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

21               “(2) appendix A of part 101-19.6 of title 41,  
22 Code of Federal Regulations (commonly known as  
23 the ‘Uniform Federal Accessibility Standards’).

1 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**  
2 **ITIES.**

3 “The Secretary shall ensure that each recipient of as-  
4 sistance under this Act makes positive efforts to employ  
5 and advance in employment qualified individuals with dis-  
6 abilities in programs assisted under this Act.

7 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**  
8 **TIONS.**

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

14 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The  
15 Secretary may not implement, or publish in final form,  
16 any regulation prescribed pursuant to this Act that would  
17 procedurally or substantively lessen the protections pro-  
18 vided to children with disabilities under this Act, as em-  
19 bodied in regulations in effect on July 20, 1983 (particu-  
20 larly as such protections relate to parental consent to ini-  
21 tial evaluation or initial placement in special education,  
22 least restrictive environment, related services, timelines,  
23 attendance of evaluation personnel at individualized edu-  
24 cation program meetings, or qualifications of personnel),  
25 except to the extent that such regulation reflects the clear  
26 and unequivocal intent of the Congress in legislation.

1       “(c) POLICY LETTERS AND STATEMENTS.—The Sec-  
2 retary may not, through policy letters or other statements,  
3 establish a rule that is required for compliance with, and  
4 eligibility under, this part without following the require-  
5 ments of section 553 of title 5, United States Code.

6       “(d) CORRESPONDENCE FROM DEPARTMENT OF  
7 EDUCATION DESCRIBING INTERPRETATIONS OF THIS  
8 PART.—

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

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

24       “(e) ISSUES OF NATIONAL SIGNIFICANCE.—If the  
25 Secretary receives a written request regarding a policy,

1 question, or interpretation under part B of this Act, and  
2 determines that it raises an issue of general interest or  
3 applicability of national significance to the implementation  
4 of part B, the Secretary shall—

5           “(1) include a statement to that effect in any  
6 written response;

7           “(2) widely disseminate that response to State  
8 educational agencies, local educational agencies, par-  
9 ent and advocacy organizations, and other interested  
10 organizations, subject to applicable laws relating to  
11 confidentiality of information; and

12           “(3) not later than one year after the date on  
13 which the Secretary responds to the written request,  
14 issue written guidance on such policy, question, or  
15 interpretation through such means as the Secretary  
16 determines to be appropriate and consistent with  
17 law, such as a policy memorandum, notice of inter-  
18 pretation, or notice of proposed rulemaking.

19           “(f) EXPLANATION.—Any written response by the  
20 Secretary under subsection (e) regarding a policy, ques-  
21 tion, or interpretation under part B of this Act shall in-  
22 clude an explanation that the written response—

23           “(1) is provided as informal guidance and is not  
24 legally binding; and

1           “(2) represents the interpretation by the De-  
2           partment of Education of the applicable statutory or  
3           regulatory requirements in the context of the specific  
4           facts presented.

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

7           **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**  
8                           **AUTHORIZATION OF APPROPRIATIONS.**

9           “(a) GRANTS TO STATES.—

10           “(1) PURPOSE OF GRANTS.—The Secretary  
11           shall make grants to States and the outlying areas,  
12           and provide funds to the Secretary of the Interior,  
13           to assist them to provide special education and relat-  
14           ed services to children with disabilities in accordance  
15           with this part.

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

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

22   “(i) aged three through five if the  
23   State is eligible for a grant under section  
24   619; and

1                   “(ii) aged six through 21; multiplied  
2                   by

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

6           “(b) OUTLYING AREAS AND FREELY ASSOCIATED  
7 STATES.—

8                   “(1) FUNDS RESERVED.—From the amount ap-  
9                   propriated for any fiscal year under subsection (j),  
10                  the Secretary shall reserve not more than one per-  
11                  cent, which shall be used—

12                   “(A) to provide assistance to the outlying  
13                   areas in accordance with their respective popu-  
14                   lations of individuals aged three through 21;  
15                   and

16                   “(B) for fiscal years 1998 through 2001,  
17                   to carry out the competition described in para-  
18                   graph (2), except that the amount reserved to  
19                   carry out that competition shall not exceed the  
20                   amount reserved for fiscal year 1996 for the  
21                   competition under part B of this Act described  
22                   under the heading “SPECIAL EDUCATION”  
23                   in Public Law 104–134.

24                  “(2) LIMITATION FOR FREELY ASSOCIATED  
25 STATES.—

1           “(A) COMPETITIVE GRANTS.—The Sec-  
2           retary shall use funds described in paragraph  
3           (1)(B) to award grants, on a competitive basis,  
4           to Guam, American Samoa, the Commonwealth  
5           of the Northern Mariana Islands, and the freely  
6           associated States to carry out the purposes of  
7           this part.

8           “(B) AWARD BASIS.—The Secretary shall  
9           award grants under subparagraph (A) on a  
10          competitive basis, pursuant to the recommenda-  
11          tions of the Pacific Region Educational Labora-  
12          tory in Honolulu, Hawaii. Those recommenda-  
13          tions shall be made by experts in the field of  
14          special education and related services.

15          “(C) ASSISTANCE REQUIREMENTS.—Any  
16          freely associated State that wishes to receive  
17          funds under this part shall include, in its appli-  
18          cation for assistance—

19                  “(i) information demonstrating that it  
20                  will meet all conditions that apply to  
21                  States under this part;

22                  “(ii) an assurance that, notwithstand-  
23                  ing any other provision of this part, it will  
24                  use those funds only for the direct provi-  
25                  sion of special education and related serv-

1           ices to children with disabilities and to en-  
2           hance its capacity to make a free appro-  
3           priate public education available to all chil-  
4           dren with disabilities;

5                   “(iii) the identity of the source and  
6                   amount of funds, in addition to funds  
7                   under this part, that it will make available  
8                   to ensure that a free appropriate public  
9                   education is available to all children with  
10                  disabilities within its jurisdiction; and

11                   “(iv) such other information and as-  
12                   surances as the Secretary may require.

13                   “(D) TERMINATION OF ELIGIBILITY.—  
14                  Notwithstanding any other provision of law, the  
15                  freely associated States shall not receive any  
16                  funds under this part for any program year  
17                  that begins after September 30, 2001.

18                   “(E) ADMINISTRATIVE COSTS.—The Sec-  
19                  retary may provide not more than five percent  
20                  of the amount reserved for grants under this  
21                  paragraph to pay the administrative costs of  
22                  the Pacific Region Educational Laboratory  
23                  under subparagraph (B).

1           “(3) LIMITATION.—An outlying area is not eli-  
2           gible for a competitive award under paragraph (2)  
3           unless it receives assistance under paragraph (1)(A).

4           “(4) SPECIAL RULE.—The provisions of Public  
5           Law 95–134, permitting the consolidation of grants  
6           by the outlying areas, shall not apply to funds pro-  
7           vided to those areas or to the freely associated  
8           States under this section.

9           “(5) ELIGIBILITY FOR DISCRETIONARY PRO-  
10          GRAMS.—The freely associated States shall be eligi-  
11          ble to receive assistance under subpart 2 of part D  
12          of this Act until September 30, 2001.

13          “(6) DEFINITION.—As used in this subsection,  
14          the term ‘freely associated States’ means the Repub-  
15          lic of the Marshall Islands, the Federated States of  
16          Micronesia, and the Republic of Palau.

17          “(c) SECRETARY OF THE INTERIOR.—From the  
18          amount appropriated for any fiscal year under subsection  
19          (j), the Secretary shall reserve 1.226 percent to provide  
20          assistance to the Secretary of the Interior in accordance  
21          with subsection (i).

22          “(d) ALLOCATIONS TO STATES.—

23                 “(1) IN GENERAL.—After reserving funds for  
24                 studies and evaluations under section 674(e), and  
25                 for payments to the outlying areas and the Secretary

1 of the Interior under subsections (b) and (c), the  
2 Secretary shall allocate the remaining amount  
3 among the States in accordance with paragraph (2)  
4 or subsection (e), as the case may be.

5 “(2) INTERIM FORMULA.—Except as provided  
6 in subsection (e), the Secretary shall allocate the  
7 amount described in paragraph (1) among the  
8 States in accordance with section 611(a)(3), (4), and  
9 (5) and (b)(1), (2), and (3) of this Act, as in effect  
10 prior to the enactment of the Individuals with Dis-  
11 abilities Education Act Amendments of 1997, except  
12 that the determination of the number of children  
13 with disabilities receiving special education and re-  
14 lated services under such section 611(a)(3) may, at  
15 the State’s discretion, be calculated as of the last  
16 Friday in October or as of December 1 of the fiscal  
17 year for which the funds are appropriated.

18 “(e) PERMANENT FORMULA.—

19 “(1) ESTABLISHMENT OF BASE YEAR.—The  
20 Secretary shall allocate the amount described in sub-  
21 section (d)(1) among the States in accordance with  
22 this subsection for each fiscal year beginning with  
23 the first fiscal year for which the amount appro-  
24 priated under subsection (j) is more than  
25 \$4,924,672,200.

1           “(2) USE OF BASE YEAR.—

2                   “(A) DEFINITION.—As used in this sub-  
3           section, the term ‘base year’ means the fiscal  
4           year preceding the first fiscal year in which this  
5           subsection applies.

6                   “(B) SPECIAL RULE FOR USE OF BASE  
7           YEAR AMOUNT.—If a State received any funds  
8           under this section for the base year on the basis  
9           of children aged three through five, but does  
10          not make a free appropriate public education  
11          available to all children with disabilities aged  
12          three through five in the State in any subse-  
13          quent fiscal year, the Secretary shall compute  
14          the State’s base year amount, solely for the  
15          purpose of calculating the State’s allocation in  
16          that subsequent year under paragraph (3) or  
17          (4), by subtracting the amount allocated to the  
18          State for the base year on the basis of those  
19          children.

20                  “(3) INCREASE IN FUNDS.—If the amount  
21          available for allocations to States under paragraph  
22          (1) is equal to or greater than the amount allocated  
23          to the States under this paragraph for the preceding  
24          fiscal year, those allocations shall be calculated as  
25          follows:

1           “(A)(i) Except as provided in subpara-  
2 graph (B), the Secretary shall—

3                   “(I) allocate to each State the amount  
4 it received for the base year;

5                   “(II) allocate 85 percent of any re-  
6 maining funds to States on the basis of  
7 their relative populations of children aged  
8 3 through 21 who are of the same age as  
9 children with disabilities for whom the  
10 State ensures the availability of a free ap-  
11 propriate public education under this part;  
12 and

13                   “(III) allocate 15 percent of those re-  
14 maining funds to States on the basis of  
15 their relative populations of children de-  
16 scribed in subclause (II) who are living in  
17 poverty.

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

23           “(B) Notwithstanding subparagraph (A),  
24 allocations under this paragraph shall be sub-  
25 ject to the following:

1                   “(i) No State’s allocation shall be less  
2 than its allocation for the preceding fiscal  
3 year.

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

6                   “(I) the sum of—

7                   “(aa) the amount it received  
8 for the base year; and

9                   “(bb) one third of one per-  
10 cent of the amount by which the  
11 amount appropriated under sub-  
12 section (j) exceeds the amount  
13 appropriated under this section  
14 for the base year;

15                   “(II) the sum of—

16                   “(aa) the amount it received  
17 for the preceding fiscal year; and

18                   “(bb) that amount multi-  
19 plied by the percentage by which  
20 the increase in the funds appro-  
21 priated from the preceding fiscal  
22 year exceeds 1.5 percent; or

23                   “(III) the sum of—

24                   “(aa) the amount it received  
25 for the preceding fiscal year; and

1                   “(bb) that amount multi-  
2                   plied by 90 percent of the per-  
3                   centage increase in the amount  
4                   appropriated from the preceding  
5                   fiscal year.

6                   “(iii) Notwithstanding clause (ii), no  
7                   State’s allocation under this paragraph  
8                   shall exceed the sum of—

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

11                  “(II) that amount multiplied by  
12                  the sum of 1.5 percent and the per-  
13                  centage increase in the amount appro-  
14                  priated.

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

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

1           “(A) If the amount available for allocations  
2 is greater than the amount allocated to the  
3 States for the base year, each State shall be al-  
4 located the sum of—

5                   “(i) the amount it received for the  
6 base year; and

7                   “(ii) an amount that bears the same  
8 relation to any remaining funds as the in-  
9 crease the State received for the preceding  
10 fiscal year over the base year bears to the  
11 total of all such increases for all States.

12           “(B)(i) If the amount available for alloca-  
13 tions is equal to or less than the amount allo-  
14 cated to the States for the base year, each  
15 State shall be allocated the amount it received  
16 for the base year.

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

20           “(f) STATE-LEVEL ACTIVITIES.—

21                   “(1) GENERAL.—

22                   “(A) Each State may retain not more than  
23 the amount described in subparagraph (B) for  
24 administration and other State-level activities in  
25 accordance with paragraphs (2) and (3).

1           “(B) For each fiscal year, the Secretary  
2 shall determine and report to the State edu-  
3 cational agency an amount that is 25 percent of  
4 the amount the State received under this sec-  
5 tion for fiscal year 1997, cumulatively adjusted  
6 by the Secretary for each succeeding fiscal year  
7 by the lesser of—

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

11                   “(ii) the rate of inflation, as measured  
12 by the percentage increase, if any, from  
13 the preceding fiscal year in the Consumer  
14 Price Index For All Urban Consumers,  
15 published by the Bureau of Labor Statis-  
16 tics of the Department of Labor.

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

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

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

23           “(2) STATE ADMINISTRATION.—

24                   “(A) For the purpose of administering this  
25 part, including section 619 (including the co-

1           ordination of activities under this part with,  
2           and providing technical assistance to, other pro-  
3           grams that provide services to children with dis-  
4           abilities)—

5                   “(i) each State may use not more  
6                   than twenty percent of the maximum  
7                   amount it may retain under paragraph  
8                   (1)(A) for any fiscal year or \$500,000 (ad-  
9                   justed by the cumulative rate of inflation  
10                  since fiscal year 1998, as measured by the  
11                  percentage increase, if any, in the  
12                  Consumer Price Index For All Urban Con-  
13                  sumers, published by the Bureau of Labor  
14                  Statistics of the Department of Labor),  
15                  whichever is greater; and

16                   “(ii) each outlying area may use up to  
17                   five percent of the amount it receives  
18                   under this section for any fiscal year or  
19                   \$35,000, whichever is greater.

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

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

5           “(A) Support and direct services, including  
6 technical assistance and personnel development  
7 and training.

8           “(B) Administrative costs of monitoring  
9 and complaint investigation, but only to the ex-  
10 tent that those costs exceed the costs incurred  
11 for those activities during fiscal year 1985.

12           “(C) To establish and implement the medi-  
13 ation process required by section 615(e), includ-  
14 ing providing for the costs of mediators and  
15 support personnel.

16           “(D) To assist local educational agencies  
17 in meeting personnel shortages.

18           “(E) To develop a State Improvement Plan  
19 under subpart 1 of part D.

20           “(F) Activities at the State and local levels  
21 to meet the performance goals established by  
22 the State under section 612(a)(16) and to sup-  
23 port implementation of the State Improvement  
24 Plan under subpart 1 of part D if the State re-  
25 ceives funds under that subpart.

1           “(G) To supplement other amounts used to  
2           develop and implement a Statewide coordinated  
3           services system designed to improve results for  
4           children and families, including children with  
5           disabilities and their families, but not to exceed  
6           one percent of the amount received by the State  
7           under this section. This system shall be coordi-  
8           nated with and, to the extent appropriate, build  
9           on the system of coordinated services developed  
10          by the State under part C of this Act.

11           “(H) For subgrants to local educational  
12          agencies for the purposes described in para-  
13          graph (4)(A).

14           “(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL  
15          AGENCIES FOR CAPACITY-BUILDING AND IMPROVE-  
16          MENT.—In any fiscal year in which the percentage  
17          increase in the State’s allocation under this section  
18          exceeds the rate of inflation (as measured by the  
19          percentage increase, if any, from the preceding fiscal  
20          year in the Consumer Price Index For All Urban  
21          Consumers, published by the Bureau of Labor Sta-  
22          tistics of the Department of Labor), each State shall  
23          reserve, from its allocation under this section, the  
24          amount described in subparagraph (B) to make sub-  
25          grants to local educational agencies, unless that

1 amount is less than \$100,000, to assist them in pro-  
2 viding direct services and in making systemic change  
3 to improve results for children with disabilities  
4 through one or more of the following:

5 “(i) Direct services, including alternative  
6 programming for children who have been ex-  
7 pelled from school, and services for children in  
8 correctional facilities, children enrolled in State-  
9 operated or State-supported schools, and chil-  
10 dren in charter schools.

11 “(ii) Addressing needs or carrying out im-  
12 provement strategies identified in the State’s  
13 Improvement Plan under subpart 1 of part D.

14 “(iii) Adopting promising practices, mate-  
15 rials, and technology, based on knowledge de-  
16 rived from education research and other  
17 sources.

18 “(iv) Establishing, expanding, or imple-  
19 menting interagency agreements and arrange-  
20 ments between local educational agencies and  
21 other agencies or organizations concerning the  
22 provision of services to children with disabilities  
23 and their families.

1           “(v) Increasing cooperative problem-solving  
2           between parents and school personnel and pro-  
3           moting the use of alternative dispute resolution.

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

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

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

20           “(5) REPORT ON USE OF FUNDS.—As part of  
21           the information required to be submitted to the Sec-  
22           retary under section 612, each State shall annually  
23           describe—

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

4           “(B) how those amounts will be allocated  
5 among the activities described in paragraphs  
6 (2) and (3) to meet State priorities based on  
7 input from local educational agencies; and

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

11       “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
12 CIES.—

13           “(1) SUBGRANTS REQUIRED.—Each State that  
14 receives a grant under this section for any fiscal  
15 year shall distribute any funds it does not retain  
16 under subsection (f) (at least 75 percent of the  
17 grant funds) to local educational agencies in the  
18 State that have established their eligibility under  
19 section 613, and to State agencies that received  
20 funds under section 614A(a) of this Act for fiscal  
21 year 1997, as then in effect, and have established  
22 their eligibility under section 613, for use in accord-  
23 ance with this part.

24           “(2) ALLOCATIONS TO LOCAL EDUCATIONAL  
25 AGENCIES.—

1           “(A) INTERIM PROCEDURE.—For each fis-  
2 cal year for which funds are allocated to States  
3 under subsection (d)(2), each State shall allo-  
4 cate funds under paragraph (1) in accordance  
5 with section 611(d) of this Act, as in effect  
6 prior to the enactment of the Individuals with  
7 Disabilities Education Act Amendments of  
8 1997.

9           “(B) PERMANENT PROCEDURE.—For each  
10 fiscal year for which funds are allocated to  
11 States under subsection (e), each State shall al-  
12 locate funds under paragraph (1) as follows:

13           “(i) BASE PAYMENTS.—The State  
14 shall first award each agency described in  
15 paragraph (1) the amount that agency  
16 would have received under this section for  
17 the base year, as defined in subsection  
18 (e)(2)(A), if the State had distributed 75  
19 percent of its grant for that year under  
20 section 611(d), as then in effect.

21           “(ii) ALLOCATION OF REMAINING  
22 FUNDS.—After making allocations under  
23 clause (i), the State shall—

24           “(I) allocate 85 percent of any  
25 remaining funds to those agencies on

1 the basis of the relative numbers of  
2 children enrolled in public and private  
3 elementary and secondary schools  
4 within the agency's jurisdiction; and

5 “(II) allocate 15 percent of those  
6 remaining funds to those agencies in  
7 accordance with their relative num-  
8 bers of children living in poverty, as  
9 determined by the State educational  
10 agency.

11 “(3) FORMER CHAPTER 1 STATE AGENCIES.—

12 “(A) To the extent necessary, the State—

13 “(i) shall use funds that are available  
14 under subsection (f)(1)(A) to ensure that  
15 each State agency that received fiscal year  
16 1994 funds under subpart 2 of part D of  
17 chapter 1 of title I of the Elementary and  
18 Secondary Education Act of 1965 receives,  
19 from the combination of funds under sub-  
20 section (f)(1)(A) and funds provided under  
21 paragraph (1) of this subsection, an  
22 amount equal to—

23 “(I) the number of children with  
24 disabilities, aged 6 through 21, to  
25 whom the agency was providing spe-

1                   cial education and related services on  
2                   December 1 of the fiscal year for  
3                   which the funds were appropriated,  
4                   subject to the limitation in subpara-  
5                   graph (B); multiplied by

6                   “**(II)** the per-child amount pro-  
7                   vided under such subpart for fiscal  
8                   year 1994; and

9                   “(ii) may use those funds to ensure  
10                  that each local educational agency that re-  
11                  ceived fiscal year 1994 funds under that  
12                  subpart for children who had transferred  
13                  from a State-operated or State-supported  
14                  school or program assisted under that sub-  
15                  part receives, from the combination of  
16                  funds available under subsection (f)(1)(A)  
17                  and funds provided under paragraph (1) of  
18                  this subsection, an amount for each such  
19                  child, aged 3 through 21 to whom the  
20                  agency was providing special education and  
21                  related services on December 1 of the fis-  
22                  cal year for which the funds were appro-  
23                  priated, equal to the per-child amount the  
24                  agency received under that subpart for fis-  
25                  cal year 1994.

1           “(B) The number of children counted  
2           under subparagraph (A)(i)(I) shall not exceed  
3           the number of children aged 3 through 21 for  
4           whom the agency received fiscal year 1994  
5           funds under subpart 2 of part D of chapter 1  
6           of title I of the Elementary and Secondary  
7           Education Act of 1965.

8           “(4) REALLOCATION OF FUNDS.—If a State  
9           educational agency determines that a local edu-  
10          cational agency is adequately providing a free appro-  
11          priate public education to all children with disabil-  
12          ities residing in the area served by that agency with  
13          State and local funds, the State educational agency  
14          may reallocate any portion of the funds under this  
15          part that are not needed by that local agency to pro-  
16          vide a free appropriate public education to other  
17          local educational agencies in the State that are not  
18          adequately providing special education and related  
19          services to all children with disabilities residing in  
20          the areas they serve.

21          “(h) DEFINITIONS.—For the purpose of this sec-  
22          tion—

23                 “(1) the term ‘average per-pupil expenditure in  
24                 public elementary and secondary schools in the Unit-  
25                 ed States’ means—

1           “(A) without regard to the source of  
2 funds—

3           “(i) the aggregate current expendi-  
4 tures, during the second fiscal year preced-  
5 ing the fiscal year for which the determina-  
6 tion is made (or, if satisfactory data for  
7 that year are not available, during the  
8 most recent preceding fiscal year for which  
9 satisfactory data are available) of all local  
10 educational agencies in the 50 States and  
11 the District of Columbia); plus

12           “(ii) any direct expenditures by the  
13 State for the operation of those agencies;  
14 divided by

15           “(B) the aggregate number of children in  
16 average daily attendance to whom those agen-  
17 cies provided free public education during that  
18 preceding year; and

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

22           “(i) USE OF AMOUNTS BY SECRETARY OF THE INTE-  
23 RIOR.—

24           “(1) PROVISION OF AMOUNTS FOR ASSIST-  
25 ANCE.—

1           “(A) IN GENERAL.—The Secretary of Edu-  
2 cation shall provide amounts to the Secretary of  
3 the Interior to meet the need for assistance for  
4 the education of children with disabilities on  
5 reservations aged 5 to 21, inclusive, enrolled in  
6 elementary and secondary schools for Indian  
7 children operated or funded by the Secretary of  
8 the Interior. The amount of such payment for  
9 any fiscal year shall be equal to 80 percent of  
10 the amount allotted under subsection (c) for  
11 that fiscal year.

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

1 Interior. The Secretary of the Interior shall be  
2 responsible for meeting all of the requirements  
3 of this part for these children, in accordance  
4 with paragraph (2).

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

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

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

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

1 tions, and other private and Federal service  
2 providers;

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

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

14 “(E) includes an assurance that the Sec-  
15 retary of the Interior and the Secretary of  
16 Health and Human Services have entered into  
17 a memorandum of agreement, to be provided to  
18 the Secretary of Education, for the coordination  
19 of services, resources, and personnel between  
20 their respective Federal, State, and local offices  
21 and with State and local educational agencies  
22 and other entities to facilitate the provision of  
23 services to Indian children with disabilities re-  
24 siding on or near reservations (such agreement  
25 shall provide for the apportionment of respon-

1 sibilities and costs including, but not limited to,  
2 child find, evaluation, diagnosis, remediation or  
3 therapeutic measures, and (where appropriate)  
4 equipment and medical or personal supplies as  
5 needed for a child to remain in school or a pro-  
6 gram); and

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

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

17 “(3) PAYMENTS FOR EDUCATION AND SERVICES  
18 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3  
19 THROUGH 5.—

20 “(A) IN GENERAL.—With funds appro-  
21 priated under subsection (j), the Secretary of  
22 Education shall make payments to the Sec-  
23 retary of the Interior to be distributed to tribes  
24 or tribal organizations (as defined under section  
25 4 of the Indian Self-Determination and Edu-

1 cation Assistance Act) or consortia of the above  
2 to provide for the coordination of assistance for  
3 special education and related services for chil-  
4 dren with disabilities aged 3 through 5 on res-  
5 ervations served by elementary and secondary  
6 schools for Indian children operated or funded  
7 by the Department of the Interior. The amount  
8 of such payments under subparagraph (B) for  
9 any fiscal year shall be equal to 20 percent of  
10 the amount allotted under subsection (c).

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

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

1 be compiled and submitted to the Secretary of  
2 Education.

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

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

1 children contacted and receiving services for  
2 each year, and the estimated number of chil-  
3 dren needing services during the 2 years follow-  
4 ing the one in which the report is made. The  
5 Secretary of the Interior shall include a sum-  
6 mary of this information on a biennial basis in  
7 the report to the Secretary of Education re-  
8 quired under this subsection. The Secretary of  
9 Education may require any additional informa-  
10 tion from the Secretary of the Interior.

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

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

1 all interested and involved parties. It shall be based  
2 on the needs of the children and the system best  
3 suited for meeting those needs, and may involve the  
4 establishment of cooperative agreements between the  
5 BIA, other Federal agencies, and other entities. The  
6 plan shall also be distributed upon request to States,  
7 State and local educational agencies, and other  
8 agencies providing services to infants, toddlers, and  
9 children with disabilities, to tribes, and to other in-  
10 terested parties.

11 “(5) ESTABLISHMENT OF ADVISORY BOARD.—  
12 To meet the requirements of section 612(a)(21), the  
13 Secretary of the Interior shall establish, not later  
14 than 6 months after the date of the enactment of  
15 the Individuals with Disabilities Education Act  
16 Amendments of 1997, under the BIA, an advisory  
17 board composed of individuals involved in or con-  
18 cerned with the education and provision of services  
19 to Indian infants, toddlers, children, and youth with  
20 disabilities, including Indians with disabilities, In-  
21 dian parents or guardians of such children, teachers,  
22 service providers, State and local educational offi-  
23 cials, representatives of tribes or tribal organiza-  
24 tions, representatives from State Interagency Co-  
25 ordinating Councils under section 641 in States hav-

1 ing reservations, and other members representing  
2 the various divisions and entities of the BIA. The  
3 chairperson shall be selected by the Secretary of the  
4 Interior. The advisory board shall—

5 “(A) assist in the coordination of services  
6 within the BIA and with other local, State, and  
7 Federal agencies in the provision of education  
8 for infants, toddlers, and children with disabili-  
9 ties;

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

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

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

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

4           “(6) ANNUAL REPORTS.—

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

11           “(B) AVAILABILITY.—The Secretary of the  
12 Interior shall make available to the Secretary of  
13 Education the report described in subparagraph  
14 (A).

15           “(j) AUTHORIZATION OF APPROPRIATIONS.—For the  
16 purpose of carrying out this part, other than section 619,  
17 there are authorized to be appropriated such sums as may  
18 be necessary.

19           **“SEC. 612. STATE ELIGIBILITY.**

20           “(a) IN GENERAL.—A State is eligible for assistance  
21 under this part for a fiscal year if the State demonstrates  
22 to the satisfaction of the Secretary that the State has in  
23 effect policies and procedures to ensure that it meets each  
24 of the following conditions:

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

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

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

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

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

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

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

6 “(II) did not have an Individual-  
7 ized Education Program under this  
8 part.

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

14 “(3) CHILD FIND.—

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

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

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

14          “(5) LEAST RESTRICTIVE ENVIRONMENT.—

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

1           plementary aids and services cannot be achieved  
2           satisfactorily.

3           “(B) ADDITIONAL REQUIREMENT.—

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

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

18           “(6) PROCEDURAL SAFEGUARDS.—

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

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

1           ment of children with disabilities will be se-  
2           lected and administered so as not to be racially  
3           or culturally discriminatory. Such materials or  
4           procedures shall be provided and administered  
5           in the child’s native language or mode of com-  
6           munication, unless it clearly is not feasible to  
7           do so, and no single procedure shall be the sole  
8           criterion for determining an appropriate edu-  
9           cational program for a child.

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

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

16           “(9) TRANSITION FROM PART C TO PRESCHOOL  
17           PROGRAMS.—Children participating in early-inter-  
18           vention programs assisted under part C, and who  
19           will participate in preschool programs assisted under  
20           this part, experience a smooth and effective transi-  
21           tion to those preschool programs in a manner con-  
22           sistent with section 637(a)(8). By the third birthday  
23           of such a child, an individualized education program  
24           or, if consistent with sections 614(d)(2)(B) and  
25           636(d), an individualized family service plan, has

1       been developed and is being implemented for the  
2       child. The local educational agency will participate in  
3       transition planning conferences arranged by the des-  
4       ignated lead agency under section 637(a)(8).

5               “(10) CHILDREN IN PRIVATE SCHOOLS.—

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

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

21                                       “(I) Amounts expended for the  
22                                       provision of those services by a local  
23                                       educational agency shall be equal to a  
24                                       proportionate amount of Federal  
25                                       funds made available under this part.

1                   “(II) Such services may be pro-  
2                   vided to children with disabilities on  
3                   the premises of private, including pa-  
4                   rochial, schools, to the extent consist-  
5                   ent with law.

6                   “(ii) CHILD-FIND REQUIREMENT.—  
7                   The requirements of paragraph (3) of this  
8                   subsection (relating to child find) shall  
9                   apply with respect to children with disabil-  
10                  ities in the State who are enrolled in pri-  
11                  vate, including parochial, elementary and  
12                  secondary schools.

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

15                  “(i) IN GENERAL.—Children with dis-  
16                  abilities in private schools and facilities are  
17                  provided special education and related  
18                  services, in accordance with an individual-  
19                  ized education program, at no cost to their  
20                  parents, if such children are placed in, or  
21                  referred to, such schools or facilities by the  
22                  State or appropriate local educational  
23                  agency as the means of carrying out the  
24                  requirements of this part or any other ap-  
25                  plicable law requiring the provision of spe-

1           cial education and related services to all  
2           children with disabilities within such State.

3           “(ii) STANDARDS.—In all cases de-  
4           scribed in clause (i), the State educational  
5           agency shall determine whether such  
6           schools and facilities meet standards that  
7           apply to State and local educational agen-  
8           cies and that children so served have all  
9           the rights they would have if served by  
10          such agencies.

11          “(C) PAYMENT FOR EDUCATION OF CHIL-  
12          DREN ENROLLED IN PRIVATE SCHOOLS WITH-  
13          OUT CONSENT OF OR REFERRAL BY THE PUB-  
14          LIC AGENCY.—

15          “(i) IN GENERAL.—Subject to sub-  
16          paragraph (A), this part does not require  
17          a local educational agency to pay for the  
18          cost of education, including special edu-  
19          cation and related services, of a child with  
20          a disability at a private school or facility if  
21          that agency made a free appropriate public  
22          education available to the child and the  
23          parents elected to place the child in such  
24          private school or facility.

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

16           “(iii) LIMITATION ON REIMBURSE-  
17 MENT.—The cost of reimbursement de-  
18 scribed in clause (ii) may be reduced or de-  
19 nied—

20                   “(I) if—

21                           “(aa) at the most recent  
22 IEP meeting that the parents at-  
23 tended prior to removal of the  
24 child from the public school, the  
25 parents did not inform the IEP

1 Team that they were rejecting  
2 the placement proposed by the  
3 public agency to provide a free  
4 appropriate public education to  
5 their child, including stating their  
6 concerns and their intent to en-  
7 roll their child in a private school  
8 at public expense; or

9 “(bb) 10 business days (in-  
10 cluding any holidays that occur  
11 on a business day) prior to the  
12 removal of the child from the  
13 public school, the parents did not  
14 give written notice to the public  
15 agency of the information de-  
16 scribed in division (aa);

17 “(II) if, prior to the parents’ re-  
18 moval of the child from the public  
19 school, the public agency informed the  
20 parents, through the notice require-  
21 ments described in section 615(b)(7),  
22 of its intent to evaluate the child (in-  
23 cluding a statement of the purpose of  
24 the evaluation that was appropriate  
25 and reasonable), but the parents did

1 not make the child available for such  
2 evaluation; or

3 “(III) upon a judicial finding of  
4 unreasonableness with respect to ac-  
5 tions taken by the parents.

6 “(iv) EXCEPTION.—Notwithstanding  
7 the notice requirement in clause (iii)(I),  
8 the cost of reimbursement may not be re-  
9 duced or denied for failure to provide such  
10 notice if—

11 “(I) the parent is illiterate and  
12 cannot write in English;

13 “(II) compliance with clause  
14 (iii)(I) would likely result in physical  
15 or serious emotional harm to the  
16 child;

17 “(III) the school prevented the  
18 parent from providing such notice; or

19 “(IV) the parents had not re-  
20 ceived notice, pursuant to section 615,  
21 of the notice requirement in clause  
22 (iii)(I).

23 “(11) STATE EDUCATIONAL AGENCY RESPON-  
24 SIBLE FOR GENERAL SUPERVISION.—

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

3                   “(i) the requirements of this part are  
4 met; and

5                   “(ii) all educational programs for chil-  
6 dren with disabilities in the State, includ-  
7 ing all such programs administered by any  
8 other State or local agency—

9                           “(I) are under the general super-  
10 vision of individuals in the State who  
11 are responsible for educational pro-  
12 grams for children with disabilities;  
13 and

14                           “(II) meet the educational stand-  
15 ards of the State educational agency.

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

22           “(C) EXCEPTION.—Notwithstanding sub-  
23 paragraphs (A) and (B), the Governor (or an-  
24 other individual pursuant to State law), consist-  
25 ent with State law, may assign to any public

1 agency in the State the responsibility of ensur-  
2 ing that the requirements of this part are met  
3 with respect to children with disabilities who  
4 are convicted as adults under State law and in-  
5 carcerated in adult prisons.

6 “(12) OBLIGATIONS RELATED TO AND METH-  
7 ODS OF ENSURING SERVICES.—

8 “(A) ESTABLISHING RESPONSIBILITY FOR  
9 SERVICES.—The Chief Executive Officer or des-  
10 ignee of the officer shall ensure that an inter-  
11 agency agreement or other mechanism for inter-  
12 agency coordination is in effect between each  
13 public agency described in subparagraph (B)  
14 and the State educational agency, in order to  
15 ensure that all services described in subpara-  
16 graph (B)(i) that are needed to ensure a free  
17 appropriate public education are provided, in-  
18 cluding the provision of such services during the  
19 pendency of any dispute under clause (iii). Such  
20 agreement or mechanism shall include the fol-  
21 lowing:

22 “(i) AGENCY FINANCIAL RESPON-  
23 SIBILITY.—An identification of, or a meth-  
24 od for defining, the financial responsibility  
25 of each agency for providing services de-

1           scribed in subparagraph (B)(i) to ensure a  
2           free appropriate public education to chil-  
3           dren with disabilities, provided that the fi-  
4           nancial responsibility of each public agency  
5           described in subparagraph (B), including  
6           the State Medicaid agency and other public  
7           insurers of children with disabilities, shall  
8           precede the financial responsibility of the  
9           local educational agency (or the State  
10          agency responsible for developing the  
11          child’s IEP).

12           “(ii) CONDITIONS AND TERMS OF RE-  
13          IMBURSEMENT.—The conditions, terms,  
14          and procedures under which a local edu-  
15          cational agency shall be reimbursed by  
16          other agencies.

17           “(iii) INTERAGENCY DISPUTES.—Pro-  
18          cedures for resolving interagency disputes  
19          (including procedures under which local  
20          educational agencies may initiate proceed-  
21          ings) under the agreement or other mecha-  
22          nism to secure reimbursement from other  
23          agencies or otherwise implement the provi-  
24          sions of the agreement or mechanism.

1           “(iv) COORDINATION OF SERVICES  
2 PROCEDURES.—Policies and procedures for  
3 agencies to determine and identify the  
4 interagency coordination responsibilities of  
5 each agency to promote the coordination  
6 and timely and appropriate delivery of  
7 services described in subparagraph (B)(i).

8           “(B) OBLIGATION OF PUBLIC AGENCY.—

9           “(i) IN GENERAL.—If any public  
10 agency other than an educational agency is  
11 otherwise obligated under Federal or State  
12 law, or assigned responsibility under State  
13 policy or pursuant to subparagraph (A), to  
14 provide or pay for any services that are  
15 also considered special education or related  
16 services (such as, but not limited to, serv-  
17 ices described in sections 602(1) relating  
18 to assistive technology devices, 602(2) re-  
19 lating to assistive technology services,  
20 602(22) relating to related services,  
21 602(29) relating to supplementary aids  
22 and services, and 602(30) relating to tran-  
23 sition services) that are necessary for en-  
24 suring a free appropriate public education  
25 to children with disabilities within the

1 State, such public agency shall fulfill that  
2 obligation or responsibility, either directly  
3 or through contract or other arrangement.

4 “(ii) REIMBURSEMENT FOR SERVICES  
5 BY PUBLIC AGENCY.—If a public agency  
6 other than an educational agency fails to  
7 provide or pay for the special education  
8 and related services described in clause (i),  
9 the local educational agency (or State  
10 agency responsible for developing the  
11 child’s IEP) shall provide or pay for such  
12 services to the child. Such local educational  
13 agency or State agency may then claim re-  
14 imbursement for the services from the pub-  
15 lic agency that failed to provide or pay for  
16 such services and such public agency shall  
17 reimburse the local educational agency or  
18 State agency pursuant to the terms of the  
19 interagency agreement or other mechanism  
20 described in subparagraph (A)(i) according  
21 to the procedures established in such  
22 agreement pursuant to subparagraph  
23 (A)(ii).

24 “(C) SPECIAL RULE.—The requirements of  
25 subparagraph (A) may be met through—

1 “(i) STATE STATUTE OR REGULATION;

2 “(ii) signed agreements between re-  
3 spective agency officials that clearly iden-  
4 tify the responsibilities of each agency re-  
5 lating to the provision of services; or

6 “(iii) other appropriate written meth-  
7 ods as determined by the Chief Executive  
8 Officer of the State or designee of the offi-  
9 cer.

10 “(13) PROCEDURAL REQUIREMENTS RELATING  
11 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—  
12 The State educational agency will not make a final  
13 determination that a local educational agency is not  
14 eligible for assistance under this part without first  
15 affording that agency reasonable notice and an op-  
16 portunity for a hearing.

17 “(14) COMPREHENSIVE SYSTEM OF PERSONNEL  
18 DEVELOPMENT.—The State has in effect, consistent  
19 with the purposes of this Act and with section  
20 635(a)(8), a comprehensive system of personnel de-  
21 velopment that is designed to ensure an adequate  
22 supply of qualified special education, regular edu-  
23 cation, and related services personnel that meets the  
24 requirements for a State improvement plan relating

1 to personnel development in subsections (b)(2)(B)  
2 and (c)(3)(D) of section 653.

3 “(15) PERSONNEL STANDARDS.—

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

9 “(B) STANDARDS DESCRIBED.—Such  
10 standards shall—

11 “(i) be consistent with any State-ap-  
12 proved or State-recognized certification, li-  
13 censing, registration, or other comparable  
14 requirements that apply to the professional  
15 discipline in which those personnel are pro-  
16 viding special education or related services;

17 “(ii) to the extent the standards de-  
18 scribed in subparagraph (A) are not based  
19 on the highest requirements in the State  
20 applicable to a specific profession or dis-  
21 cipline, the State is taking steps to require  
22 retraining or hiring of personnel that meet  
23 appropriate professional requirements in  
24 the State; and

1           “(iii) allow paraprofessionals and as-  
2           sistants who are appropriately trained and  
3           supervised, in accordance with State law,  
4           regulations, or written policy, in meeting  
5           the requirements of this part to be used to  
6           assist in the provision of special education  
7           and related services to children with dis-  
8           abilities under this part.

9           “(C) POLICY.—In implementing this para-  
10          graph, a State may adopt a policy that includes  
11          a requirement that local educational agencies in  
12          the State make an ongoing good-faith effort to  
13          recruit and hire appropriately and adequately  
14          trained personnel to provide special education  
15          and related services to children with disabilities,  
16          including, in a geographic area of the State  
17          where there is a shortage of such personnel, the  
18          most qualified individuals available who are  
19          making satisfactory progress toward completing  
20          applicable course work necessary to meet the  
21          standards described in subparagraph (B)(i),  
22          consistent with State law, and the steps de-  
23          scribed in subparagraph (B)(ii) within three  
24          years.

1           “(16) PERFORMANCE GOALS AND INDICA-  
2           TORS.—The State—

3           “(A) has established goals for the perform-  
4           ance of children with disabilities in the State  
5           that—

6           “(i) will promote the purposes of this  
7           Act, as stated in section 601(d); and

8           “(ii) are consistent, to the maximum  
9           extent appropriate, with other goals and  
10          standards for children established by the  
11          State;

12          “(B) has established performance indica-  
13          tors the State will use to assess progress toward  
14          achieving those goals that, at a minimum, ad-  
15          dress the performance of children with disabil-  
16          ities on assessments, drop-out rates, and grad-  
17          uation rates;

18          “(C) will, every two years, report to the  
19          Secretary and the public on the progress of the  
20          State, and of children with disabilities in the  
21          State, toward meeting the goals established  
22          under subparagraph (A); and

23          “(D) based on its assessment of that  
24          progress, will revise its State improvement plan  
25          under subpart 1 of part D as may be needed

1 to improve its performance, if the State receives  
2 assistance under that subpart.

3 “(17) PARTICIPATION IN ASSESSMENTS.—

4 “(A) IN GENERAL.—Children with disabili-  
5 ties are included in general State and district-  
6 wide assessment programs, with appropriate ac-  
7 commodations, where necessary. As appro-  
8 priate, the State or local educational agency—

9 “(i) develops guidelines for the par-  
10 ticipation of children with disabilities in al-  
11 ternate assessments for those children who  
12 cannot participate in State and district-  
13 wide assessment programs; and

14 “(ii) develops and, beginning not later  
15 than July 1, 2000, conducts those alter-  
16 nate assessments.

17 “(B) REPORTS.—The State educational  
18 agency makes available to the public, and re-  
19 ports to the public with the same frequency and  
20 in the same detail as it reports on the assess-  
21 ment of nondisabled children, the following:

22 “(i) The number of children with dis-  
23 abilities participating in regular assess-  
24 ments.

1           “(ii) The number of those children  
2 participating in alternate assessments.

3           “(iii)(I) The performance of those  
4 children on regular assessments (beginning  
5 not later than July 1, 1998) and on alter-  
6 nate assessments (not later than July 1,  
7 2000), if doing so would be statistically  
8 sound and would not result in the disclo-  
9 sure of performance results identifiable to  
10 individual children.

11           “(II) Data relating to the perform-  
12 ance of children described under subclause  
13 (I) shall be disaggregated—

14                   “(aa) for assessments conducted  
15 after July 1, 1998; and

16                   “(bb) for assessments conducted  
17 before July 1, 1998, if the State is re-  
18 quired to disaggregate such data prior  
19 to July 1, 1998.

20           “(18) SUPPLEMENTATION OF STATE, LOCAL,  
21 AND OTHER FEDERAL FUNDS.—

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

1           “(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part  
2 will not be commingled with State funds.  
3

4           “(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613,  
5 funds paid to a State under this part will be  
6 used to supplement the level of Federal, State,  
7 and local funds (including funds that are not  
8 under the direct control of State or local edu-  
9 cational agencies) expended for special edu-  
10 cation and related services provided to children  
11 with disabilities under this part and in no case  
12 to supplant such Federal, State, and local  
13 funds, except that, where the State provides  
14 clear and convincing evidence that all children  
15 with disabilities have available to them a free  
16 appropriate public education, the Secretary may  
17 waive, in whole or in part, the requirements of  
18 this subparagraph if the Secretary concurs with  
19 the evidence provided by the State.  
20

21           “(19) MAINTENANCE OF STATE FINANCIAL  
22 SUPPORT.—  
23

24           “(A) IN GENERAL.—The State does not re-  
25 duce the amount of State financial support for

1 special education and related services for chil-  
2 dren with disabilities, or otherwise made avail-  
3 able because of the excess costs of educating  
4 those children, below the amount of that sup-  
5 port for the preceding fiscal year.

6 “(B) REDUCTION OF FUNDS FOR FAILURE  
7 TO MAINTAIN SUPPORT.—The Secretary shall  
8 reduce the allocation of funds under section 611  
9 for any fiscal year following the fiscal year in  
10 which the State fails to comply with the re-  
11 quirement of subparagraph (A) by the same  
12 amount by which the State fails to meet the re-  
13 quirement.

14 “(C) WAIVERS FOR EXCEPTIONAL OR UN-  
15 CONTROLLABLE CIRCUMSTANCES.—The Sec-  
16 retary may waive the requirement of subpara-  
17 graph (A) for a State, for one fiscal year at a  
18 time, if the Secretary determines that—

19 “(i) granting a waiver would be equi-  
20 table due to exceptional or uncontrollable  
21 circumstances such as a natural disaster or  
22 a precipitous and unforeseen decline in the  
23 financial resources of the State; or

24 “(ii) the State meets the standard in  
25 paragraph (18)(C) of this section for a

1 waiver of the requirement to supplement,  
2 and not to supplant, funds received under  
3 this part.

4 “(D) SUBSEQUENT YEARS.—If, for any  
5 year, a State fails to meet the requirement of  
6 subparagraph (A), including any year for which  
7 the State is granted a waiver under subpara-  
8 graph (C), the financial support required of the  
9 State in future years under subparagraph (A)  
10 shall be the amount that would have been re-  
11 quired in the absence of that failure and not  
12 the reduced level of the State’s support.

13 “(E) REGULATIONS.—

14 (i) The Secretary shall, by regulation,  
15 establish procedures (including objective  
16 criteria and consideration of the results of  
17 compliance reviews of the State conducted  
18 by the Secretary) for determining whether  
19 to grant a waiver under subparagraph  
20 (C)(ii).

21 “(ii) The Secretary shall publish pro-  
22 posed regulations under clause (i) not later  
23 than 6 months after the date of the enact-  
24 ment of the Individuals with Disabilities  
25 Education Act Amendments of 1997, and

1           shall issue final regulations under clause  
2           (i) not later than 1 year after such date of  
3           enactment.

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

12          “(21) STATE ADVISORY PANEL.—

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

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

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

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

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

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

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

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

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

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

1           “(22) SUSPENSION AND EXPULSION RATES.—

2                   “(A) IN GENERAL.—The State educational  
3           agency examines data to determine if signifi-  
4           cant discrepancies are occurring in the rate of  
5           long-term suspensions and expulsions of chil-  
6           dren with disabilities—

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

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

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

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

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

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

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

9           “(1) IN GENERAL.—If a State has on file with  
10          the Secretary policies and procedures that dem-  
11          onstrate that such State meets any requirement of  
12          subsection (a), including any policies and procedures  
13          filed under this part as in effect before the effective  
14          date of the Individuals with Disabilities Education  
15          Act Amendments of 1997, the Secretary shall con-  
16          sider such State to have met such requirement for  
17          purposes of receiving a grant under this part.

18          “(2) MODIFICATIONS MADE BY STATE.—Sub-  
19          ject to paragraph (3), an application submitted by a  
20          State in accordance with this section shall remain in  
21          effect until the State submits to the Secretary such  
22          modifications as the State deems necessary. This  
23          section shall apply to a modification to an applica-  
24          tion to the same extent and in the same manner as  
25          this section applies to the original plan.

1           “(3) MODIFICATIONS REQUIRED BY THE SEC-  
2           RETARY.—If, after the effective date of the Individ-  
3           uals with Disabilities Education Act Amendments of  
4           1997, the provisions of this Act are amended (or the  
5           regulations developed to carry out this Act are  
6           amended), or there is a new interpretation of this  
7           Act by a Federal court or a State’s highest court,  
8           or there is an official finding of noncompliance with  
9           Federal law or regulations, the Secretary may re-  
10          quire a State to modify its application only to the  
11          extent necessary to ensure the State’s compliance  
12          with this part.

13          “(d) APPROVAL BY THE SECRETARY.—

14                 “(1) IN GENERAL.—If the Secretary determines  
15                 that a State is eligible to receive a grant under this  
16                 part, the Secretary shall notify the State of that de-  
17                 termination.

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

22                         “(A) with reasonable notice; and

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

24          “(e) ASSISTANCE UNDER OTHER FEDERAL PRO-  
25          GRAMS.—Nothing in this title permits a State to reduce

1 medical and other assistance available, or to alter eligi-  
2 bility, under titles V and XIX of the Social Security Act  
3 with respect to the provision of a free appropriate public  
4 education for children with disabilities in the State.

5 “(f) BY-PASS FOR CHILDREN IN PRIVATE  
6 SCHOOLS.—

7 “(1) IN GENERAL.—If, on the date of enact-  
8 ment of the Education of the Handicapped Act  
9 Amendments of 1983, a State educational agency is  
10 prohibited by law from providing for the participa-  
11 tion in special programs of children with disabilities  
12 enrolled in private elementary and secondary schools  
13 as required by subsection (a)(10)(A), the Secretary  
14 shall, notwithstanding such provision of law, arrange  
15 for the provision of services to such children through  
16 arrangements which shall be subject to the require-  
17 ments of such subsection.

18 “(2) PAYMENTS.—

19 “(A) DETERMINATION OF AMOUNTS.—If  
20 the Secretary arranges for services pursuant to  
21 this subsection, the Secretary, after consulta-  
22 tion with the appropriate public and private  
23 school officials, shall pay to the provider of such  
24 services for a fiscal year an amount per child

1 that does not exceed the amount determined by  
2 dividing—

3 “(i) the total amount received by the  
4 State under this part for such fiscal year;  
5 by

6 “(ii) the number of children with dis-  
7 abilities served in the prior year, as re-  
8 ported to the Secretary by the State under  
9 section 618.

10 “(B) WITHHOLDING OF CERTAIN  
11 AMOUNTS.—Pending final resolution of any in-  
12 vestigation or complaint that could result in a  
13 determination under this subsection, the Sec-  
14 retary may withhold from the allocation of the  
15 affected State educational agency the amount  
16 the Secretary estimates would be necessary to  
17 pay the cost of services described in subpara-  
18 graph (A).

19 “(C) PERIOD OF PAYMENTS.—The period  
20 under which payments are made under sub-  
21 paragraph (A) shall continue until the Sec-  
22 retary determines that there will no longer be  
23 any failure or inability on the part of the State  
24 educational agency to meet the requirements of  
25 subsection (a)(10)(A).

1           “(3) NOTICE AND HEARING.—

2                   “(A) IN GENERAL.—The Secretary shall  
3 not take any final action under this subsection  
4 until the State educational agency affected by  
5 such action has had an opportunity, for at least  
6 45 days after receiving written notice thereof,  
7 to submit written objections and to appear be-  
8 fore the Secretary or the Secretary’s designee  
9 to show cause why such action should not be  
10 taken.

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

1           “(C) REVIEW OF FINDINGS OF FACT.—The  
2 findings of fact by the Secretary, if supported  
3 by substantial evidence, shall be conclusive, but  
4 the court, for good cause shown, may remand  
5 the case to the Secretary to take further evi-  
6 dence, and the Secretary may thereupon make  
7 new or modified findings of fact and may mod-  
8 ify the Secretary’s previous action, and shall file  
9 in the court the record of the further proceed-  
10 ings. Such new or modified findings of fact  
11 shall likewise be conclusive if supported by sub-  
12 stantial evidence.

13           “(D) JURISDICTION OF COURT OF AP-  
14 PEALS; REVIEW BY UNITED STATES SUPREME  
15 COURT.—Upon the filing of a petition under  
16 subparagraph (B), the United States court of  
17 appeals shall have jurisdiction to affirm the ac-  
18 tion of the Secretary or to set it aside, in whole  
19 or in part. The judgment of the court shall be  
20 subject to review by the Supreme Court of the  
21 United States upon certiorari or certification as  
22 provided in section 1254 of title 28, United  
23 States Code.

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

2       “(a) IN GENERAL.—A local educational agency is eli-  
3 gible for assistance under this part for a fiscal year if such  
4 agency demonstrates to the satisfaction of the State edu-  
5 cational agency that it meets each of the following condi-  
6 tions:

7           “(1) CONSISTENCY WITH STATE POLICIES.—

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

13           “(2) USE OF AMOUNTS.—

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

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

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

25                   “(iii) shall not be used, except as pro-  
26 vided in subparagraphs (B) and (C), to re-

1           duce the level of expenditures for the edu-  
2           cation of children with disabilities made by  
3           the local educational agency from local  
4           funds below the level of those expenditures  
5           for the preceding fiscal year.

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

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

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

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

22                           “(I) has left the jurisdiction of  
23                           the agency;

24                           “(II) has reached the age at  
25                           which the obligation of the agency to

1 provide a free appropriate public edu-  
2 cation to the child has terminated; or

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

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

9 “(C) TREATMENT OF FEDERAL FUNDS IN  
10 CERTAIN FISCAL YEARS.—

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

21 “(ii) Notwithstanding clause (i), if a  
22 State educational agency determines that a  
23 local educational agency is not meeting the  
24 requirements of this part, the State edu-  
25 cational agency may prohibit the local edu-

1           cational agency from treating funds re-  
2           ceived under this part as local funds under  
3           clause (i) for any fiscal year, only if it is  
4           authorized to do so by the State constitu-  
5           tion or a State statute.

6           “(D) SCHOOLWIDE PROGRAMS UNDER  
7           TITLE I OF THE ESEA.—Notwithstanding sub-  
8           paragraph (A) or any other provision of this  
9           part, a local educational agency may use funds  
10          received under this part for any fiscal year to  
11          carry out a schoolwide program under section  
12          1114 of the Elementary and Secondary Edu-  
13          cation Act of 1965, except that the amount so  
14          used in any such program shall not exceed—

15                 “(i) the number of children with dis-  
16                 abilities participating in the schoolwide  
17                 program; multiplied by

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

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

23          “(3) PERSONNEL DEVELOPMENT.—The local  
24          educational agency—

1           “(A) shall ensure that all personnel nec-  
2           essary to carry out this part are appropriately  
3           and adequately prepared, consistent with the re-  
4           quirements of section 653(c)(3)(D); and

5           “(B) to the extent such agency determines  
6           appropriate, shall contribute to and use the  
7           comprehensive system of personnel development  
8           of the State established under section  
9           612(a)(14).

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

15                 “(A) SERVICES AND AIDS THAT ALSO BEN-  
16                 EFIT NONDISABLED CHILDREN.—For the costs  
17                 of special education and related services and  
18                 supplementary aids and services provided in a  
19                 regular class or other education-related setting  
20                 to a child with a disability in accordance with  
21                 the individualized education program of the  
22                 child, even if one or more nondisabled children  
23                 benefit from such services.

24                 “(B) INTEGRATED AND COORDINATED  
25                 SERVICES SYSTEM.—To develop and implement

1 a fully integrated and coordinated services sys-  
2 tem in accordance with subsection (f).

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

8 “(A) serves children with disabilities at-  
9 tending those schools in the same manner as it  
10 serves children with disabilities in its other  
11 schools; and

12 “(B) provides funds under this part to  
13 those schools in the same manner as it provides  
14 those funds to its other schools.

15 “(6) INFORMATION FOR STATE EDUCATIONAL  
16 AGENCY.—The local educational agency shall provide  
17 the State educational agency with information nec-  
18 essary to enable the State educational agency to  
19 carry out its duties under this part, including, with  
20 respect to paragraphs (16) and (17) of section  
21 612(a), information relating to the performance of  
22 children with disabilities participating in programs  
23 carried out under this part.

24 “(7) PUBLIC INFORMATION.—The local edu-  
25 cational agency shall make available to parents of

1 children with disabilities and to the general public  
2 all documents relating to the eligibility of such agen-  
3 cy under this part.

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

5 “(1) IN GENERAL.—If a local educational agen-  
6 cy or State agency has on file with the State edu-  
7 cational agency policies and procedures that dem-  
8 onstrate that such local educational agency, or such  
9 State agency, as the case may be, meets any require-  
10 ment of subsection (a), including any policies and  
11 procedures filed under this part as in effect before  
12 the effective date of the Individuals with Disabilities  
13 Education Act Amendments of 1997, the State edu-  
14 cational agency shall consider such local educational  
15 agency or State agency, as the case may be, to have  
16 met such requirement for purposes of receiving as-  
17 sistance under this part.

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

1           “(3) MODIFICATIONS REQUIRED BY STATE  
2 EDUCATIONAL AGENCY.—If, after the effective date  
3 of the Individuals with Disabilities Education Act  
4 Amendments of 1997, the provisions of this Act are  
5 amended (or the regulations developed to carry out  
6 this Act are amended), or there is a new interpreta-  
7 tion of this Act by Federal or State courts, or there  
8 is an official finding of noncompliance with Federal  
9 or State law or regulations, the State educational  
10 agency may require a local educational agency to  
11 modify its application only to the extent necessary to  
12 ensure the local educational agency’s compliance  
13 with this part or State law.

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

23           “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

24           “(1) IN GENERAL.—If the State educational  
25 agency, after reasonable notice and an opportunity

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

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

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

24 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

25 “(1) JOINT ESTABLISHMENT.—

1           “(A) IN GENERAL.—A State educational  
2           agency may require a local educational agency  
3           to establish its eligibility jointly with another  
4           local educational agency if the State educational  
5           agency determines that the local educational  
6           agency would be ineligible under this section be-  
7           cause the local educational agency would not be  
8           able to establish and maintain programs of suf-  
9           ficient size and scope to effectively meet the  
10          needs of children with disabilities.

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

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

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

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

7                   “(B) be jointly responsible for implement-  
8                   ing programs that receive assistance under this  
9                   part.

10           “(4) REQUIREMENTS FOR EDUCATIONAL SERV-  
11           ICE AGENCIES.—

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

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

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

23                   “(B) ADDITIONAL REQUIREMENT.—Not-  
24                   withstanding any other provision of this sub-  
25                   section, an educational service agency shall pro-

1           vide for the education of children with disabil-  
2           ities in the least restrictive environment, as re-  
3           quired by section 612(a)(5).

4           “(f) COORDINATED SERVICES SYSTEM.—

5           “(1) IN GENERAL.—A local educational agency  
6           may not use more than 5 percent of the amount  
7           such agency receives under this part for any fiscal  
8           year, in combination with other amounts (which  
9           shall include amounts other than education funds),  
10          to develop and implement a coordinated services sys-  
11          tem designed to improve results for children and  
12          families, including children with disabilities and their  
13          families.

14          “(2) ACTIVITIES.—In implementing a coordi-  
15          nated services system under this subsection, a local  
16          educational agency may carry out activities that in-  
17          clude—

18                  “(A) improving the effectiveness and effi-  
19                  ciency of service delivery, including developing  
20                  strategies that promote accountability for re-  
21                  sults;

22                  “(B) service coordination and case man-  
23                  agement that facilitates the linkage of individ-  
24                  ualized education programs under this part and  
25                  individualized family service plans under part C

1 with individualized service plans under multiple  
2 Federal and State programs, such as title I of  
3 the Rehabilitation Act of 1973 (vocational reha-  
4 bilitation), title XIX of the Social Security Act  
5 (Medicaid), and title XVI of the Social Security  
6 Act (supplemental security income);

7 “(C) developing and implementing inter-  
8 agency financing strategies for the provision of  
9 education, health, mental health, and social  
10 services, including transition services and relat-  
11 ed services under this Act; and

12 “(D) interagency personnel development  
13 for individuals working on coordinated services.

14 “(3) COORDINATION WITH CERTAIN PROJECTS  
15 UNDER ELEMENTARY AND SECONDARY EDUCATION  
16 ACT OF 1965.—If a local educational agency is carry-  
17 ing out a coordinated services project under title XI  
18 of the Elementary and Secondary Education Act of  
19 1965 and a coordinated services project under this  
20 part in the same schools, such agency shall use  
21 amounts under this subsection in accordance with  
22 the requirements of that title.

23 “(g) SCHOOL-BASED IMPROVEMENT PLAN.—

24 “(1) IN GENERAL.—Each local educational  
25 agency may, in accordance with paragraph (2), use

1 funds made available under this part to permit a  
2 public school within the jurisdiction of the local edu-  
3 cational agency to design, implement, and evaluate  
4 a school-based improvement plan that is consistent  
5 with the purposes described in section 651(b) and  
6 that is designed to improve educational and transi-  
7 tional results for all children with disabilities and, as  
8 appropriate, for other children consistent with sub-  
9 paragraphs (A) and (B) of subsection (a)(4) in that  
10 public school.

11 “(2) AUTHORITY.—

12 “(A) IN GENERAL.—A State educational  
13 agency may grant authority to a local edu-  
14 cational agency to permit a public school de-  
15 scribed in paragraph (1) (through a school-  
16 based standing panel established under para-  
17 graph (4)(B)) to design, implement, and evalu-  
18 ate a school-based improvement plan described  
19 in paragraph (1) for a period not to exceed 3  
20 years.

21 “(B) RESPONSIBILITY OF LOCAL EDU-  
22 CATIONAL AGENCY.—If a State educational  
23 agency grants the authority described in sub-  
24 paragraph (A), a local educational agency that  
25 is granted such authority shall have the sole re-

1           sponsibility of oversight of all activities relating  
2           to the design, implementation, and evaluation of  
3           any school-based improvement plan that a pub-  
4           lic school is permitted to design under this sub-  
5           section.

6           “(3) PLAN REQUIREMENTS.—A school-based  
7           improvement plan described in paragraph (1) shall—

8                   “(A) be designed to be consistent with the  
9                   purposes described in section 651(b) and to im-  
10                  prove educational and transitional results for all  
11                  children with disabilities and, as appropriate,  
12                  for other children consistent with subpara-  
13                  graphs (A) and (B) of subsection (a)(4), who  
14                  attend the school for which the plan is designed  
15                  and implemented;

16                   “(B) be designed, evaluated, and, as ap-  
17                   propriate, implemented by a school-based stand-  
18                   ing panel established in accordance with para-  
19                   graph (4)(B);

20                   “(C) include goals and measurable indica-  
21                   tors to assess the progress of the public school  
22                   in meeting such goals; and

23                   “(D) ensure that all children with disabil-  
24                   ities receive the services described in the indi-  
25                   vidualized education programs of such children.

1           “(4) RESPONSIBILITIES OF THE LOCAL EDU-  
2           CATIONAL AGENCY.—A local educational agency that  
3           is granted authority under paragraph (2) to permit  
4           a public school to design, implement, and evaluate a  
5           school-based improvement plan shall—

6                   “(A) select each school under the jurisdic-  
7                   tion of such agency that is eligible to design,  
8                   implement, and evaluate such a plan;

9                   “(B) require each school selected under  
10                  subparagraph (A), in accordance with criteria  
11                  established by such local educational agency  
12                  under subparagraph (C), to establish a school-  
13                  based standing panel to carry out the duties de-  
14                  scribed in paragraph (3)(B);

15                  “(C) establish—

16                          “(i) criteria that shall be used by such  
17                          local educational agency in the selection of  
18                          an eligible school under subparagraph (A);

19                          “(ii) criteria that shall be used by a  
20                          public school selected under subparagraph  
21                          (A) in the establishment of a school-based  
22                          standing panel to carry out the duties de-  
23                          scribed in paragraph (3)(B) and that shall  
24                          ensure that the membership of such panel  
25                          reflects the diversity of the community in

1 which the public school is located and in-  
2 cludes, at a minimum—

3 “(I) parents of children with dis-  
4 abilities who attend such public  
5 school, including parents of children  
6 with disabilities from unserved and  
7 underserved populations, as appro-  
8 priate;

9 “(II) special education and gen-  
10 eral education teachers of such public  
11 school;

12 “(III) special education and gen-  
13 eral education administrators, or the  
14 designee of such administrators, of  
15 such public school; and

16 “(IV) related services providers  
17 who are responsible for providing  
18 services to the children with disabil-  
19 ities who attend such public school;  
20 and

21 “(iii) criteria that shall be used by  
22 such local educational agency with respect  
23 to the distribution of funds under this part  
24 to carry out this subsection;

1           “(D) disseminate the criteria established  
2           under subparagraph (C) to local school district  
3           personnel and local parent organizations within  
4           the jurisdiction of such local educational agen-  
5           cy;

6           “(E) require a public school that desires to  
7           design, implement, and evaluate a school-based  
8           improvement plan to submit an application at  
9           such time, in such manner, and accompanied by  
10          such information as such local educational  
11          agency shall reasonably require; and

12          “(F) establish procedures for approval by  
13          such local educational agency of a school-based  
14          improvement plan designed under this sub-  
15          section.

16          “(5) LIMITATION.—A school-based improve-  
17          ment plan described in paragraph (1) may be sub-  
18          mitted to a local educational agency for approval  
19          only if a consensus with respect to any matter relat-  
20          ing to the design, implementation, or evaluation of  
21          the goals of such plan is reached by the school-based  
22          standing panel that designed such plan.

23          “(6) ADDITIONAL REQUIREMENTS.—

24                  “(A) PARENTAL INVOLVEMENT.—In carry-  
25                  ing out the requirements of this subsection, a

1 local educational agency shall ensure that the  
2 parents of children with disabilities are involved  
3 in the design, evaluation, and, where appro-  
4 priate, implementation of school-based improve-  
5 ment plans in accordance with this subsection.

6 “(B) PLAN APPROVAL.—A local edu-  
7 cational agency may approve a school-based im-  
8 provement plan of a public school within the ju-  
9 risdiction of such agency for a period of 3  
10 years, if—

11 “(i) the approval is consistent with  
12 the policies, procedures, and practices es-  
13 tablished by such local educational agency  
14 and in accordance with this subsection;  
15 and

16 “(ii) a majority of parents of children  
17 who are members of the school-based  
18 standing panel, and a majority of other  
19 members of the school-based standing  
20 panel, that designed such plan agree in  
21 writing to such plan.

22 “(7) EXTENSION OF PLAN.—If a public school  
23 within the jurisdiction of a local educational agency  
24 meets the applicable requirements and criteria de-  
25 scribed in paragraphs (3) and (4) at the expiration

1 of the 3-year approval period described in paragraph  
2 (6)(B), such agency may approve a school-based im-  
3 provement plan of such school for an additional 3-  
4 year period.

5 “(h) DIRECT SERVICES BY THE STATE EDU-  
6 CATIONAL AGENCY.—

7 “(1) IN GENERAL.—A State educational agency  
8 shall use the payments that would otherwise have  
9 been available to a local educational agency or to a  
10 State agency to provide special education and relat-  
11 ed services directly to children with disabilities resid-  
12 ing in the area served by that local agency, or for  
13 whom that State agency is responsible, if the State  
14 educational agency determines that the local edu-  
15 cation agency or State agency, as the case may be—

16 “(A) has not provided the information  
17 needed to establish the eligibility of such agency  
18 under this section;

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

22 “(C) is unable or unwilling to be consoli-  
23 dated with one or more local educational agen-  
24 cies in order to establish and maintain such  
25 programs; or

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

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

13          “(i) STATE AGENCY ELIGIBILITY.—Any State agency  
14          that desires to receive a subgrant for any fiscal year under  
15          section 611(g) shall demonstrate to the satisfaction of the  
16          State educational agency that—

17                 “(1) all children with disabilities who are par-  
18                 ticipating in programs and projects funded under  
19                 this part receive a free appropriate public education,  
20                 and that those children and their parents are pro-  
21                 vided all the rights and procedural safeguards de-  
22                 scribed in this part; and

23                 “(2) the agency meets such other conditions of  
24                 this section as the Secretary determines to be appro-  
25                 priate.

1       “(j) DISCIPLINARY INFORMATION.—The State may  
 2 require that a local educational agency include in the  
 3 records of a child with a disability a statement of any cur-  
 4 rent or previous disciplinary action that has been taken  
 5 against the child and transmit such statement to the same  
 6 extent that such disciplinary information is included in,  
 7 and transmitted with, the student records of nondisabled  
 8 children. The statement may include a description of any  
 9 behavior engaged in by the child that required disciplinary  
 10 action, a description of the disciplinary action taken, and  
 11 any other information that is relevant to the safety of the  
 12 child and other individuals involved with the child. If the  
 13 State adopts such a policy, and the child transfers from  
 14 one school to another, the transmission of any of the  
 15 child’s records must include both the child’s current indi-  
 16 vidualized education program and any such statement of  
 17 current or previous disciplinary action that has been taken  
 18 against the child.

19 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**  
 20 **INDIVIDUALIZED EDUCATION PROGRAMS,**  
 21 **AND EDUCATIONAL PLACEMENTS.**

22       “(a) EVALUATIONS AND REEVALUATIONS.—

23               “(1) INITIAL EVALUATIONS.—

24                       “(A) IN GENERAL.—A State educational  
 25 agency, other State agency, or local educational

1 agency shall conduct a full and individual initial  
2 evaluation, in accordance with this paragraph  
3 and subsection (b), before the initial provision  
4 of special education and related services to a  
5 child with a disability under this part.

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

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

11 “(ii) to determine the educational  
12 needs of such child.

13 “(C) PARENTAL CONSENT.—

14 “(i) IN GENERAL.—The agency pro-  
15 posing to conduct an initial evaluation to  
16 determine if the child qualifies as a child  
17 with a disability as defined in section  
18 602(3)(A) or 602(3)(B) shall obtain an in-  
19 formed consent from the parent of such  
20 child before the evaluation is conducted.  
21 Parental consent for evaluation shall not  
22 be construed as consent for placement for  
23 receipt of special education and related  
24 services.

1                   “(ii) REFUSAL.—If the parents of  
2                   such child refuse consent for the evalua-  
3                   tion, the agency may continue to pursue an  
4                   evaluation by utilizing the mediation and  
5                   due process procedures under section 615,  
6                   except to the extent inconsistent with State  
7                   law relating to parental consent.

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

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

14                  “(B) in accordance with subsections (b)  
15                  and (c).

16                  “(b) EVALUATION PROCEDURES.—

17                  “(1) NOTICE.—The local educational agency  
18                  shall provide notice to the parents of a child with a  
19                  disability, in accordance with subsections (b)(3),  
20                  (b)(4), and (c) of section 615, that describes any  
21                  evaluation procedures such agency proposes to con-  
22                  duct.

23                  “(2) CONDUCT OF EVALUATION.—In conduct-  
24                  ing the evaluation, the local educational agency  
25                  shall—

1           “(A) use a variety of assessment tools and  
2 strategies to gather relevant functional and de-  
3 velopmental information, including information  
4 provided by the parent, that may assist in de-  
5 termining whether the child is a child with a  
6 disability and the content of the child’s individ-  
7 ualized education program, including informa-  
8 tion related to enabling the child to be involved  
9 in and progress in the general curriculum or,  
10 for preschool children, to participate in appro-  
11 priate activities;

12           “(B) not use any single procedure as the  
13 sole criterion for determining whether a child is  
14 a child with a disability or determining an ap-  
15 propriate educational program for the child;  
16 and

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

21           “(3) ADDITIONAL REQUIREMENTS.—Each local  
22 educational agency shall ensure that—

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

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

4           “(ii) are provided and administered in  
5           the child’s native language or other mode  
6           of communication, unless it is clearly not  
7           feasible to do so; and

8           “(B) any standardized tests that are given  
9           to the child—

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

12           “(ii) are administered by trained and  
13           knowledgeable personnel; and

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

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

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

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

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

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

9           “(5) SPECIAL RULE FOR ELIGIBILITY DETER-  
10 MINATION.—In making a determination of eligibility  
11 under paragraph (4)(A), a child shall not be deter-  
12 mined to be a child with a disability if the deter-  
13 minant factor for such determination is lack of in-  
14 struction in reading or math or limited English pro-  
15 ficiency.

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

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

24           “(A) review existing evaluation data on the  
25 child, including evaluations and information

1 provided by the parents of the child, current  
2 classroom-based assessments and observations,  
3 and teacher and related services providers ob-  
4 servation; and

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

8 “(i) whether the child has a particular  
9 category of disability, as described in sec-  
10 tion 602(3), or, in case of a reevaluation of  
11 a child, whether the child continues to have  
12 such a disability;

13 “(ii) the present levels of performance  
14 and educational needs of the child;

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

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

1                   gram of the child and to participate, as ap-  
2                   propriate, in the general curriculum.

3                   “(2) SOURCE OF DATA.—The local educational  
4                   agency shall administer such tests and other evalua-  
5                   tion materials as may be needed to produce the data  
6                   identified by the IEP Team under paragraph (1)(B).

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

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

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

23                                       “(i) that determination and the rea-  
24                                       sons for it; and

1                   “(ii) the right of such parents to re-  
2                   quest an assessment to determine whether  
3                   the child continues to be a child with a dis-  
4                   ability; and

5                   “(B) shall not be required to conduct such  
6                   an assessment unless requested to by the child’s  
7                   parents.

8                   “(5) EVALUATIONS BEFORE CHANGE IN ELIGI-  
9                   BILITY.—A local educational agency shall evaluate a  
10                  child with a disability in accordance with this section  
11                  before determining that the child is no longer a child  
12                  with a disability.

13                  “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

15                  “(A) INDIVIDUALIZED EDUCATION PRO-  
16                  GRAM.—The term ‘individualized education pro-  
17                  gram’ or ‘IEP’ means a written statement for  
18                  each child with a disability that is developed,  
19                  reviewed, and revised in accordance with this  
20                  section and that includes—

21                         “(i) a statement of the child’s present  
22                         levels of educational performance, includ-  
23                         ing—

1                   “(I) how the child’s disability af-  
2                   fects the child’s involvement and  
3                   progress in the general curriculum; or

4                   “(II) for preschool children, as  
5                   appropriate, how the disability affects  
6                   the child’s participation in appropriate  
7                   activities;

8                   “(ii) a statement of measurable an-  
9                   nual goals, including benchmarks or short-  
10                  term objectives, related to—

11                  “(I) meeting the child’s needs  
12                  that result from the child’s disability  
13                  to enable the child to be involved in  
14                  and progress in the general curricu-  
15                  lum; and

16                  “(II) meeting each of the child’s  
17                  other educational needs that result  
18                  from the child’s disability;

19                  “(iii) a statement of the special edu-  
20                  cation and related services and supple-  
21                  mentary aids and services to be provided to  
22                  the child, or on behalf of the child, and a  
23                  statement of the program modifications or  
24                  supports for school personnel that will be  
25                  provided for the child—

1                   “(I) to advance appropriately to-  
2                   ward attaining the annual goals;

3                   “(II) to be involved and progress  
4                   in the general curriculum in accord-  
5                   ance with clause (i) and to participate  
6                   in extracurricular and other nonaca-  
7                   demic activities; and

8                   “(III) to be educated and partici-  
9                   pate with other children with disabil-  
10                  ities and nondisabled children in the  
11                  activities described in this paragraph;

12                  “(iv) an explanation of the extent, if  
13                  any, to which the child will not participate  
14                  with nondisabled children in the regular  
15                  class and in the activities described in  
16                  clause (iii);

17                  “(v)(I) a statement of any individual  
18                  modifications in the administration of  
19                  State or districtwide assessments of stu-  
20                  dent achievement that are needed in order  
21                  for the child to participate in such assess-  
22                  ment; and

23                  “(II) if the IEP Team determines  
24                  that the child will not participate in a par-  
25                  ticular State or districtwide assessment of

1 student achievement (or part of such an  
2 assessment), a statement of—

3 “(aa) why that assessment is not  
4 appropriate for the child; and

5 “(bb) how the child will be as-  
6 sessed;

7 “(vi) the projected date for the begin-  
8 ning of the services and modifications de-  
9 scribed in clause (iii), and the anticipated  
10 frequency, location, and duration of those  
11 services and modifications;

12 “(vii)(I) beginning at age 14, and up-  
13 dated annually, a statement of the transi-  
14 tion service needs of the child under the  
15 applicable components of the child’s IEP  
16 that focuses on the child’s courses of study  
17 (such as participation in advanced-place-  
18 ment courses or a vocational education  
19 program);

20 “(II) beginning at age 16 (or younger,  
21 if determined appropriate by the IEP  
22 Team), a statement of needed transition  
23 services for the child, including, when ap-  
24 propriate, a statement of the interagency  
25 responsibilities or any needed linkages; and

1           “(III) beginning at least one year be-  
2 fore the child reaches the age of majority  
3 under State law, a statement that the child  
4 has been informed of his or her rights  
5 under this title, if any, that will transfer to  
6 the child on reaching the age of majority  
7 under section 615(m); and

8           “(viii) a statement of—

9           “(I) how the child’s progress to-  
10 ward the annual goals described in  
11 clause (ii) will be measured; and

12           “(II) how the child’s parents will  
13 be regularly informed (by such means  
14 as periodic report cards), at least as  
15 often as parents are informed of their  
16 nondisabled children’s progress, of—

17           “(aa) their child’s progress  
18 toward the annual goals de-  
19 scribed in clause (ii); and

20           “(bb) the extent to which  
21 that progress is sufficient to en-  
22 able the child to achieve the goals  
23 by the end of the year.

24           “(B) INDIVIDUALIZED EDUCATION PRO-  
25 GRAM TEAM.—The term ‘individualized edu-

1 cation program team' or 'IEP Team' means a  
2 group of individuals composed of—

3 “(i) the parents of a child with a dis-  
4 ability;

5 “(ii) at least one regular education  
6 teacher of such child (if the child is, or  
7 may be, participating in the regular edu-  
8 cation environment);

9 “(iii) at least one special education  
10 teacher, or where appropriate, at least one  
11 special education provider of such child;

12 “(iv) a representative of the local edu-  
13 cational agency who—

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

18 “(II) is knowledgeable about the  
19 general curriculum; and

20 “(III) is knowledgeable about the  
21 availability of resources of the local  
22 educational agency;

23 “(v) an individual who can interpret  
24 the instructional implications of evaluation

1 results, who may be a member of the team  
2 described in clauses (ii) through (vi);

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

8 “(vii) whenever appropriate, the child  
9 with a disability.

10 “(2) REQUIREMENT THAT PROGRAM BE IN EF-  
11 FECT.—

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

19 “(B) PROGRAM FOR CHILD AGED 3  
20 THROUGH 5.—In the case of a child with a dis-  
21 ability aged 3 through 5 (or, at the discretion  
22 of the State educational agency, a 2 year-old  
23 child with a disability who will turn age 3 dur-  
24 ing the school year), an individualized family  
25 service plan that contains the material de-

1 scribed in section 636, and that is developed in  
2 accordance with this section, may serve as the  
3 IEP of the child if using that plan as the IEP  
4 is—

5 “(i) consistent with State policy; and

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

8 “(3) DEVELOPMENT OF IEP.—

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

12 “(i) the strengths of the child and the  
13 concerns of the parents for enhancing the  
14 education of their child; and

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

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

19 “(i) in the case of a child whose be-  
20 havior impedes his or her learning or that  
21 of others, consider, when appropriate,  
22 strategies, including positive behavioral  
23 interventions, strategies, and supports to  
24 address that behavior;

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

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

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

1 direct instruction in the child’s language  
2 and communication mode; and

3 “(v) consider whether the child re-  
4 quires assistive technology devices and  
5 services.

6 “(C) REQUIREMENT WITH RESPECT TO  
7 REGULAR EDUCATION TEACHER.—The regular  
8 education teacher of the child, as a member of  
9 the IEP Team, shall, to the extent appropriate,  
10 participate in the development of the IEP of  
11 the child, including the determination of appro-  
12 priate positive behavioral interventions and  
13 strategies and the determination of supple-  
14 mentary aids and services, program modifica-  
15 tions, and support for school personnel consist-  
16 ent with paragraph (1)(A)(iii).

17 “(4) REVIEW AND REVISION OF IEP.—

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

21 “(i) reviews the child’s IEP periodi-  
22 cally, but not less than annually to deter-  
23 mine whether the annual goals for the  
24 child are being achieved; and

1           “(ii) revises the IEP as appropriate to  
2           address—

3                   “(I) any lack of expected  
4                   progress toward the annual goals and  
5                   in the general curriculum, where ap-  
6                   propriate;

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

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

12                  “(IV) the child’s anticipated  
13                  needs; or

14                  “(V) other matters.

15                  “(B) REQUIREMENT WITH RESPECT TO  
16                  REGULAR EDUCATION TEACHER.—The regular  
17                  education teacher of the child, as a member of  
18                  the IEP Team, shall, to the extent appropriate,  
19                  participate in the review and revision of the  
20                  IEP of the child.

21                  “(5) FAILURE TO MEET TRANSITION OBJEC-  
22                  TIVES.—If a participating agency, other than the  
23                  local educational agency, fails to provide the transi-  
24                  tion services described in the IEP in accordance with  
25                  paragraph (1)(A)(vii), the local educational agency

1 shall reconvene the IEP Team to identify alternative  
2 strategies to meet the transition objectives for the  
3 child set out in that program.

4 “(6) CHILDREN WITH DISABILITIES IN ADULT  
5 PRISONS.—

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

10 “(i) The requirements contained in  
11 section 612(a)(17) and paragraph  
12 (1)(A)(v) of this subsection (relating to  
13 participation of children with disabilities in  
14 general assessments).

15 “(ii) The requirements of subclauses  
16 (I) and (II) of paragraph (1)(A)(vii) of  
17 this subsection (relating to transition plan-  
18 ning and transition services), do not apply  
19 with respect to such children whose eligi-  
20 bility under this part will end, because of  
21 their age, before they will be released from  
22 prison.

23 “(B) ADDITIONAL REQUIREMENT.—If a  
24 child with a disability is convicted as an adult  
25 under State law and incarcerated in an adult

1           prison, the child’s IEP Team may modify the  
2           child’s IEP or placement notwithstanding the  
3           requirements of sections 612(a)(5)(A) and  
4           614(d)(1)(A) if the State has demonstrated a  
5           bona fide security or compelling penological in-  
6           terest that cannot otherwise be accommodated.

7           “(e) CONSTRUCTION.—Nothing in this section shall  
8           be construed to require the IEP Team to include informa-  
9           tion under one component of a child’s IEP that is already  
10          contained under another component of such IEP.

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

16          **“SEC. 615. PROCEDURAL SAFEGUARDS.**

17          “(a) ESTABLISHMENT OF PROCEDURES.—Any State  
18          educational agency, State agency, or local educational  
19          agency that receives assistance under this part shall estab-  
20          lish and maintain procedures in accordance with this sec-  
21          tion to ensure that children with disabilities and their par-  
22          ents are guaranteed procedural safeguards with respect to  
23          the provision of free appropriate public education by such  
24          agencies.

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

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

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

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

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

24                      “(B) refuses to initiate or change;

1 the identification, evaluation, or educational place-  
2 ment of the child, in accordance with subsection (c),  
3 or the provision of a free appropriate public edu-  
4 cation to the child;

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

9 “(5) an opportunity for mediation in accordance  
10 with subsection (e);

11 “(6) an opportunity to present complaints with  
12 respect to any matter relating to the identification,  
13 evaluation, or educational placement of the child, or  
14 the provision of a free appropriate public education  
15 to such child;

16 “(7) procedures that require the parent of a  
17 child with a disability, or the attorney representing  
18 the child, to provide notice (which shall remain con-  
19 fidential)—

20 “(A) to the State educational agency or  
21 local educational agency, as the case may be, in  
22 the complaint filed under paragraph (6); and

23 “(B) that shall include—

1           “(i) the name of the child, the address  
2           of the residence of the child, and the name  
3           of the school the child is attending;

4           “(ii) a description of the nature of the  
5           problem of the child relating to such pro-  
6           posed initiation or change, including facts  
7           relating to such problem; and

8           “(iii) a proposed resolution of the  
9           problem to the extent known and available  
10          to the parents at the time; and

11          “(8) procedures that require the State edu-  
12          cational agency to develop a model form to assist  
13          parents in filing a complaint in accordance with  
14          paragraph (7).

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

17                 “(1) a description of the action proposed or re-  
18                 fused by the agency;

19                 “(2) an explanation of why the agency proposes  
20                 or refuses to take the action;

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

1           “(4) a description of each evaluation procedure,  
2           test, record, or report the agency used as a basis for  
3           the proposed or refused action;

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

6           “(6) a statement that the parents of a child  
7           with a disability have protection under the proce-  
8           dural safeguards of this part and, if this notice is  
9           not an initial referral for evaluation, the means by  
10          which a copy of a description of the procedural safe-  
11          guards can be obtained; and

12          “(7) sources for parents to contact to obtain as-  
13          sistance in understanding the provisions of this part.

14          “(d) PROCEDURAL SAFEGUARDS NOTICE.—

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

19                         “(A) upon initial referral for evaluation;

20                         “(B) upon each notification of an individ-  
21                         ualized education program meeting and upon  
22                         reevaluation of the child; and

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

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

8           “(A) independent educational evaluation;

9           “(B) prior written notice;

10          “(C) parental consent;

11          “(D) access to educational records;

12          “(E) opportunity to present complaints;

13          “(F) the child’s placement during pend-  
14 ency of due process proceedings;

15          “(G) procedures for students who are sub-  
16 ject to placement in an interim alternative edu-  
17 cational setting;

18          “(H) requirements for unilateral placement  
19 by parents of children in private schools at pub-  
20 lic expense;

21          “(I) mediation;

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

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

3           “(L) civil actions; and

4           “(M) attorneys’ fees.

5           “(e) MEDIATION.—

6           “(1) IN GENERAL.—Any State educational  
7           agency or local educational agency that receives as-  
8           sistance under this part shall ensure that procedures  
9           are established and implemented to allow parties to  
10          disputes involving any matter described in sub-  
11          section (b)(6) to resolve such disputes through a me-  
12          diation process which, at a minimum, shall be avail-  
13          able whenever a hearing is requested under sub-  
14          section (f) or (k).

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

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

19                         “(i) is voluntary on the part of the  
20                         parties;

21                         “(ii) is not used to deny or delay a  
22                         parent’s right to a due process hearing  
23                         under subsection (f), or to deny any other  
24                         rights afforded under this part; and

1           “(iii) is conducted by a qualified and  
2           impartial mediator who is trained in effec-  
3           tive mediation techniques.

4           “(B) A local educational agency or a State  
5           agency may establish procedures to require par-  
6           ents who choose not to use the mediation proc-  
7           ess to meet, at a time and location convenient  
8           to the parents, with a disinterested party who  
9           is under contract with—

10           “(i) a parent training and information  
11           center or community parent resource cen-  
12           ter in the State established under section  
13           682 or 683; or

14           “(ii) an appropriate alternative dis-  
15           pute resolution entity;  
16           to encourage the use, and explain the benefits,  
17           of the mediation process to the parents.

18           “(C) The State shall maintain a list of in-  
19           dividuals who are qualified mediators and  
20           knowledgeable in laws and regulations relating  
21           to the provision of special education and related  
22           services.

23           “(D) The State shall bear the cost of the  
24           mediation process, including the costs of meet-  
25           ings described in subparagraph (B).

1           “(E) Each session in the mediation process  
2 shall be scheduled in a timely manner and shall  
3 be held in a location that is convenient to the  
4 parties to the dispute.

5           “(F) An agreement reached by the parties  
6 to the dispute in the mediation process shall be  
7 set forth in a written mediation agreement.

8           “(G) Discussions that occur during the  
9 mediation process shall be confidential and may  
10 not be used as evidence in any subsequent due  
11 process hearings or civil proceedings and the  
12 parties to the mediation process may be re-  
13 quired to sign a confidentiality pledge prior to  
14 the commencement of such process.

15           “(f) IMPARTIAL DUE PROCESS HEARING.—

16           “(1) IN GENERAL.—Whenever a complaint has  
17 been received under subsection (b)(6) or (k) of this  
18 section, the parents involved in such complaint shall  
19 have an opportunity for an impartial due process  
20 hearing, which shall be conducted by the State edu-  
21 cational agency or by the local educational agency,  
22 as determined by State law or by the State edu-  
23 cational agency.

24           “(2) DISCLOSURE OF EVALUATIONS AND REC-  
25 OMMENDATIONS.—

1           “(A) IN GENERAL.—At least 5 business  
2           days prior to a hearing conducted pursuant to  
3           paragraph (1), each party shall disclose to all  
4           other parties all evaluations completed by that  
5           date and recommendations based on the offer-  
6           ing party’s evaluations that the party intends to  
7           use at the hearing.

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

13          “(3) LIMITATION ON CONDUCT OF HEARING.—  
14          A hearing conducted pursuant to paragraph (1) may  
15          not be conducted by an employee of the State edu-  
16          cational agency or the local educational agency in-  
17          volved in the education or care of the child.

18          “(g) APPEAL.—If the hearing required by subsection  
19 (f) is conducted by a local educational agency, any party  
20 aggrieved by the findings and decision rendered in such  
21 a hearing may appeal such findings and decision to the  
22 State educational agency. Such agency shall conduct an  
23 impartial review of such decision. The officer conducting  
24 such review shall make an independent decision upon com-  
25 pletion of such review.

1       “(h) SAFEGUARDS.—Any party to a hearing con-  
2 ducted pursuant to subsection (f) or (k), or an appeal con-  
3 ducted pursuant to subsection (g), shall be accorded—

4           “(1) the right to be accompanied and advised  
5 by counsel and by individuals with special knowledge  
6 or training with respect to the problems of children  
7 with disabilities;

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

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

14           “(4) the right to written, or, at the option of  
15 the parents, electronic findings of fact and decisions  
16 (which findings and decisions shall be made available  
17 to the public consistent with the requirements of sec-  
18 tion 617(c) (relating to the confidentiality of data,  
19 information, and records) and shall also be transmit-  
20 ted to the advisory panel established pursuant to  
21 section 612(a)(21)).

22       “(i) ADMINISTRATIVE PROCEDURES.—

23           “(1) IN GENERAL.—

24           “(A) DECISION MADE IN HEARING.—A de-  
25 cision made in a hearing conducted pursuant to

1 subsection (f) or (k) shall be final, except that  
2 any party involved in such hearing may appeal  
3 such decision under the provisions of subsection  
4 (g) and paragraph (2) of this subsection.

5 “(B) DECISION MADE AT APPEAL.—A de-  
6 cision made under subsection (g) shall be final,  
7 except that any party may bring an action  
8 under paragraph (2) of this subsection.

9 “(2) RIGHT TO BRING CIVIL ACTION.—

10 “(A) IN GENERAL.—Any party aggrieved  
11 by the findings and decision made under sub-  
12 section (f) or (k) who does not have the right  
13 to an appeal under subsection (g), and any  
14 party aggrieved by the findings and decision  
15 under this subsection, shall have the right to  
16 bring a civil action with respect to the com-  
17 plaint presented pursuant to this section, which  
18 action may be brought in any State court of  
19 competent jurisdiction or in a district court of  
20 the United States without regard to the amount  
21 in controversy.

22 “(B) ADDITIONAL REQUIREMENTS.—In  
23 any action brought under this paragraph, the  
24 court—

1           “(i) shall receive the records of the  
2           administrative proceedings;

3           “(ii) shall hear additional evidence at  
4           the request of a party; and

5           “(iii) basing its decision on the pre-  
6           ponderance of the evidence, shall grant  
7           such relief as the court determines is ap-  
8           propriate.

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

11           “(A) IN GENERAL.—The district courts of  
12          the United States shall have jurisdiction of ac-  
13          tions brought under this section without regard  
14          to the amount in controversy.

15           “(B) AWARD OF ATTORNEYS’ FEES.—In  
16          any action or proceeding brought under this  
17          section, the court, in its discretion, may award  
18          reasonable attorneys’ fees as part of the costs  
19          to the parents of a child with a disability who  
20          is the prevailing party.

21           “(C) DETERMINATION OF AMOUNT OF AT-  
22          TORNEYS’ FEES.—Fees awarded under this  
23          paragraph shall be based on rates prevailing in  
24          the community in which the action or proceed-  
25          ing arose for the kind and quality of services

1 furnished. No bonus or multiplier may be used  
2 in calculating the fees awarded under this sub-  
3 section.

4 “(D) PROHIBITION OF ATTORNEYS’ FEES  
5 AND RELATED COSTS FOR CERTAIN SERV-  
6 ICES.—

7 “(i) Attorneys’ fees may not be  
8 awarded and related costs may not be re-  
9 imbursement in any action or proceeding  
10 under this section for services performed  
11 subsequent to the time of a written offer of  
12 settlement to a parent if—

13 “(I) the offer is made within the  
14 time prescribed by Rule 68 of the  
15 Federal Rules of Civil Procedure or,  
16 in the case of an administrative pro-  
17 ceeding, at any time more than ten  
18 days before the proceeding begins;

19 “(II) the offer is not accepted  
20 within 10 days; and

21 “(III) the court or administrative  
22 hearing officer finds that the relief fi-  
23 nally obtained by the parents is not  
24 more favorable to the parents than  
25 the offer of settlement.

1           “(ii) Attorneys’ fees may not be  
2           awarded relating to any meeting of the  
3           IEP Team unless such meeting is convened  
4           as a result of an administrative proceeding  
5           or judicial action, or, at the discretion of  
6           the State, for a mediation described in  
7           subsection (e) that is conducted prior to  
8           the filing of a complaint under subsection  
9           (b)(6) or (k) of this section.

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

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

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

24                   “(ii) the amount of the attorneys’ fees  
25                   otherwise authorized to be awarded unrea-

1 sonably exceeds the hourly rate prevailing  
2 in the community for similar services by  
3 attorneys of reasonably comparable skill,  
4 reputation, and experience;

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

8 “(iv) the attorney representing the  
9 parent did not provide to the school dis-  
10 trict the appropriate information in the  
11 due process complaint in accordance with  
12 subsection (b)(7);

13 the court shall reduce, accordingly, the amount  
14 of the attorneys’ fees awarded under this sec-  
15 tion.

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

24 “(j) MAINTENANCE OF CURRENT EDUCATIONAL  
25 PLACEMENT.—Except as provided in subsection (k)(7),

1 during the pendency of any proceedings conducted pursu-  
2 ant to this section, unless the State or local educational  
3 agency and the parents otherwise agree, the child shall  
4 remain in the then-current educational placement of such  
5 child, or, if applying for initial admission to a public  
6 school, shall, with the consent of the parents, be placed  
7 in the public school program until all such proceedings  
8 have been completed.

9 “(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL  
10 SETTING.—

11 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

12 “(A) School personnel under this section  
13 may order a change in the placement of a child  
14 with a disability—

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

21 “(ii) to an appropriate interim alter-  
22 native educational setting for the same  
23 amount of time that a child without a dis-  
24 ability would be subject to discipline, but  
25 for not more than 45 days if—

1           “(I) the child carries a weapon to  
2           school or to a school function under  
3           the jurisdiction of a State or a local  
4           educational agency; or

5           “(II) the child knowingly pos-  
6           sesses or uses illegal drugs or sells or  
7           solicits the sale of a controlled sub-  
8           stance while at school or a school  
9           function under the jurisdiction of a  
10          State or local educational agency.

11          “(B) Either before or not later than 10  
12          days after taking a disciplinary action described  
13          in subparagraph (A)—

14               “(i) if the local educational agency did  
15               not conduct a functional behavioral assess-  
16               ment and implement a behavioral interven-  
17               tion plan for such child before the behavior  
18               that resulted in the suspension described in  
19               subparagraph (A), the agency shall con-  
20               vene an IEP meeting to develop an assess-  
21               ment plan to address that behavior; or

22               “(ii) if the child already has a behav-  
23               ioral intervention plan, the IEP Team shall  
24               review the plan and modify it, as nec-  
25               essary, to address the behavior.

1           “(2) AUTHORITY OF HEARING OFFICER.—A  
2 hearing officer under this section may order a  
3 change in the placement of a child with a disability  
4 to an appropriate interim alternative educational set-  
5 ting for not more than 45 days if the hearing offi-  
6 cer—

7           “(A) determines that the public agency has  
8 demonstrated by substantial evidence that  
9 maintaining the current placement of such child  
10 is substantially likely to result in injury to the  
11 child or to others;

12           “(B) considers the appropriateness of the  
13 child’s current placement;

14           “(C) considers whether the public agency  
15 has made reasonable efforts to minimize the  
16 risk of harm in the child’s current placement,  
17 including the use of supplementary aids and  
18 services; and

19           “(D) determines that the interim alter-  
20 native educational setting meets the require-  
21 ments of paragraph (3)(B).

22           “(3) DETERMINATION OF SETTING.—

23           “(A) IN GENERAL.—The alternative edu-  
24 cational setting described in paragraph

1 (1)(A)(ii) shall be determined by the IEP  
2 Team.

3 “(B) ADDITIONAL REQUIREMENTS.—Any  
4 interim alternative educational setting in which  
5 a child is placed under paragraph (1) or (2)  
6 shall—

7 “(i) be selected so as to enable the  
8 child to continue to participate in the gen-  
9 eral curriculum, although in another set-  
10 ting, and to continue to receive those serv-  
11 ices and modifications, including those de-  
12 scribed in the child’s current IEP, that will  
13 enable the child to meet the goals set out  
14 in that IEP; and

15 “(ii) include services and modifica-  
16 tions designed to address the behavior de-  
17 scribed in paragraph (1) or paragraph (2)  
18 so that it does not recur.

19 “(4) MANIFESTATION DETERMINATION RE-  
20 VIEW.—

21 “(A) IN GENERAL.—If a disciplinary ac-  
22 tion is contemplated as described in paragraph  
23 (1) or paragraph (2) for a behavior of a child  
24 with a disability described in either of those  
25 paragraphs, or if a disciplinary action involving

1 a change of placement for more than 10 days  
2 is contemplated for a child with a disability who  
3 has engaged in other behavior that violated any  
4 rule or code of conduct of the local educational  
5 agency that applies to all children—

6 “(i) not later than the date on which  
7 the decision to take that action is made,  
8 the parents shall be notified of that deci-  
9 sion and of all procedural safeguards ac-  
10 corded under this section; and

11 “(ii) immediately, if possible, but in  
12 no case later than 10 school days after the  
13 date on which the decision to take that ac-  
14 tion is made, a review shall be conducted  
15 of the relationship between the child’s dis-  
16 ability and the behavior subject to the dis-  
17 ciplinary action.

18 “(B) INDIVIDUALS TO CARRY OUT RE-  
19 VIEW.—A review described in subparagraph (A)  
20 shall be conducted by the IEP Team and other  
21 qualified personnel.

22 “(C) CONDUCT OF REVIEW.—In carrying  
23 out a review described in subparagraph (A), the  
24 IEP Team may determine that the behavior of

1 the child was not a manifestation of such  
2 child's disability only if the IEP Team—

3 “(i) first considers, in terms of the be-  
4 havior subject to disciplinary action, all rel-  
5 evant information, including—

6 “(I) evaluation and diagnostic re-  
7 sults, including such results or other  
8 relevant information supplied by the  
9 parents of the child;

10 “(II) observations of the child;  
11 and

12 “(III) the child's IEP and place-  
13 ment; and

14 “(ii) then determines that—

15 “(I) in relationship to the behav-  
16 ior subject to disciplinary action, the  
17 child's IEP and placement were ap-  
18 propriate and the special education  
19 services, supplementary aids and serv-  
20 ices, and behavior intervention strate-  
21 gies were provided consistent with the  
22 child's IEP and placement;

23 “(II) the child's disability did not  
24 impair the ability of the child to un-  
25 derstand the impact and consequences

1 of the behavior subject to disciplinary  
2 action; and

3 “(III) the child’s disability did  
4 not impair the ability of the child to  
5 control the behavior subject to dis-  
6 ciplinary action.

7 “(5) DETERMINATION THAT BEHAVIOR WAS  
8 NOT MANIFESTATION OF DISABILITY.—

9 “(A) IN GENERAL.—If the result of the re-  
10 view described in paragraph (4) is a determina-  
11 tion, consistent with paragraph (4)(C), that the  
12 behavior of the child with a disability was not  
13 a manifestation of the child’s disability, the rel-  
14 evant disciplinary procedures applicable to chil-  
15 dren without disabilities may be applied to the  
16 child in the same manner in which they would  
17 be applied to children without disabilities, ex-  
18 cept as provided in section 612(a)(1).

19 “(B) ADDITIONAL REQUIREMENT.—If the  
20 public agency initiates disciplinary procedures  
21 applicable to all children, the agency shall en-  
22 sure that the special education and disciplinary  
23 records of the child with a disability are trans-  
24 mitted for consideration by the person or per-

1 sons making the final determination regarding  
2 the disciplinary action.

3 “(6) PARENT APPEAL.—

4 “(A) IN GENERAL.—

5 “(i) If the child’s parent disagrees  
6 with a determination that the child’s be-  
7 havior was not a manifestation of the  
8 child’s disability or with any decision re-  
9 garding placement, the parent may request  
10 a hearing.

11 “(ii) The State or local educational  
12 agency shall arrange for an expedited hear-  
13 ing in any case described in this subsection  
14 when requested by a parent.

15 “(B) REVIEW OF DECISION.—

16 “(i) In reviewing a decision with re-  
17 spect to the manifestation determination,  
18 the hearing officer shall determine whether  
19 the public agency has demonstrated that  
20 the child’s behavior was not a manifesta-  
21 tion of such child’s disability consistent  
22 with the requirements of paragraph (4)(C).

23 “(ii) In reviewing a decision under  
24 paragraph (1)(A)(ii) to place the child in  
25 an interim alternative educational setting,

1           the hearing officer shall apply the stand-  
2           ards set out in paragraph (2).

3           “(7) PLACEMENT DURING APPEALS.—

4           “(A) IN GENERAL.—When a parent re-  
5           quests a hearing regarding a disciplinary action  
6           described in paragraph (1)(A)(ii) or paragraph  
7           (2) to challenge the interim alternative edu-  
8           cational setting or the manifestation determina-  
9           tion, the child shall remain in the interim alter-  
10          native educational setting pending the decision  
11          of the hearing officer or until the expiration of  
12          the time period provided for in paragraph  
13          (1)(A)(ii) or paragraph (2), whichever occurs  
14          first, unless the parent and the State or local  
15          educational agency agree otherwise.

16          “(B) CURRENT PLACEMENT.—If a child is  
17          placed in an interim alternative educational set-  
18          ting pursuant to paragraph (1)(A)(ii) or para-  
19          graph (2) and school personnel propose to  
20          change the child’s placement after expiration of  
21          the interim alternative placement, during the  
22          pendency of any proceeding to challenge the  
23          proposed change in placement, the child shall  
24          remain in the current placement (the child’s  
25          placement prior to the interim alternative edu-

1           cational setting), except as provided in subpara-  
2           graph (C).

3           “(C) EXPEDITED HEARING.—

4                   “(i) If school personnel maintain that  
5                   it is dangerous for the child to be in the  
6                   current placement (placement prior to re-  
7                   moval to the interim alternative education  
8                   setting) during the pendency of the due  
9                   process proceedings, the local educational  
10                  agency may request an expedited hearing.

11                  “(ii) In determining whether the child  
12                  may be placed in the alternative edu-  
13                  cational setting or in another appropriate  
14                  placement ordered by the hearing officer,  
15                  the hearing officer shall apply the stand-  
16                  ards set out in paragraph (2).

17           “(8) PROTECTIONS FOR CHILDREN NOT YET  
18           ELIGIBLE FOR SPECIAL EDUCATION AND RELATED  
19           SERVICES.—

20                   “(A) IN GENERAL.—A child who has not  
21                   been determined to be eligible for special edu-  
22                   cation and related services under this part and  
23                   who has engaged in behavior that violated any  
24                   rule or code of conduct of the local educational  
25                   agency, including any behavior described in

1 paragraph (1), may assert any of the protec-  
2 tions provided for in this part if the local edu-  
3 cational agency had knowledge (as determined  
4 in accordance with this paragraph) that the  
5 child was a child with a disability before the be-  
6 havior that precipitated the disciplinary action  
7 occurred.

8 “(B) BASIS OF KNOWLEDGE.—A local edu-  
9 cational agency shall be deemed to have knowl-  
10 edge that a child is a child with a disability if—

11 “(i) the parent of the child has ex-  
12 pressed concern in writing (unless the par-  
13 ent is illiterate or has a disability that pre-  
14 vents compliance with the requirements  
15 contained in this clause) to personnel of  
16 the appropriate educational agency that  
17 the child is in need of special education  
18 and related services;

19 “(ii) the behavior or performance of  
20 the child demonstrates the need for such  
21 services;

22 “(iii) the parent of the child has re-  
23 quested an evaluation of the child pursuant  
24 to section 614; or

1           “(iv) the teacher of the child, or other  
2           personnel of the local educational agency,  
3           has expressed concern about the behavior  
4           or performance of the child to the director  
5           of special education of such agency or to  
6           other personnel of the agency.

7           “(C) CONDITIONS THAT APPLY IF NO  
8           BASIS OF KNOWLEDGE.—

9           “(i) IN GENERAL.—If a local edu-  
10          cational agency does not have knowledge  
11          that a child is a child with a disability (in  
12          accordance with subparagraph (B)) prior  
13          to taking disciplinary measures against the  
14          child, the child may be subjected to the  
15          same disciplinary measures as measures  
16          applied to children without disabilities who  
17          engaged in comparable behaviors consist-  
18          ent with clause (ii).

19          “(ii) LIMITATIONS.—If a request is  
20          made for an evaluation of a child during  
21          the time period in which the child is sub-  
22          jected to disciplinary measures under para-  
23          graph (1) or (2), the evaluation shall be  
24          conducted in an expedited manner. If the  
25          child is determined to be a child with a dis-

1 ability, taking into consideration informa-  
2 tion from the evaluation conducted by the  
3 agency and information provided by the  
4 parents, the agency shall provide special  
5 education and related services in accord-  
6 ance with the provisions of this part, ex-  
7 cept that, pending the results of the eval-  
8 uation, the child shall remain in the edu-  
9 cational placement determined by school  
10 authorities.

11 “(9) REFERRAL TO AND ACTION BY LAW EN-  
12 FORCEMENT AND JUDICIAL AUTHORITIES.—

13 “(A) Nothing in this part shall be con-  
14 strued to prohibit an agency from reporting a  
15 crime committed by a child with a disability to  
16 appropriate authorities or to prevent State law  
17 enforcement and judicial authorities from exer-  
18 cising their responsibilities with regard to the  
19 application of Federal and State law to crimes  
20 committed by a child with a disability.

21 “(B) An agency reporting a crime commit-  
22 ted by a child with a disability shall ensure that  
23 copies of the special education and disciplinary  
24 records of the child are transmitted for consid-

1           eration by the appropriate authorities to whom  
2           it reports the crime.

3           “(10) DEFINITIONS.—For purposes of this sub-  
4           section, the following definitions apply:

5                   “(A) CONTROLLED SUBSTANCE.—The  
6           term ‘controlled substance’ means a drug or  
7           other substance identified under schedules I, II,  
8           III, IV, or V in section 202(c) of the Controlled  
9           Substances Act (21 U.S.C. 812(c)).

10                   “(B) ILLEGAL DRUG.—The term ‘illegal  
11           drug’—

12                           “(i) means a controlled substance; but

13                           “(ii) does not include such a sub-  
14           stance that is legally possessed or used  
15           under the supervision of a licensed health-  
16           care professional or that is legally pos-  
17           sessed or used under any other authority  
18           under that Act or under any other provi-  
19           sion of Federal law.

20                   “(C) SUBSTANTIAL EVIDENCE.—The term  
21           ‘substantial evidence’ means beyond a prepon-  
22           derance of the evidence.

23                   “(D) WEAPON.—The term ‘weapon’ has  
24           the meaning given the term ‘dangerous weapon’

1           under paragraph (2) of the first subsection (g)  
2           of section 930 of title 18, United States Code.

3           “(l) RULE OF CONSTRUCTION.—Nothing in this part  
4 shall be construed to restrict or limit the rights, proce-  
5 dures, and remedies available under the Constitution, the  
6 Americans with Disabilities Act of 1990, title V of the Re-  
7 habilitation Act of 1973, or other Federal laws protecting  
8 the rights of children with disabilities, except that before  
9 the filing of a civil action under such laws seeking relief  
10 that is also available under this part, the procedures under  
11 subsections (f) and (g) shall be exhausted to the same ex-  
12 tent as would be required had the action been brought  
13 under this part.

14           “(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF  
15 MAJORITY.—

16           “(1) IN GENERAL.—A State that receives  
17 amounts from a grant under this part may provide  
18 that, when a child with a disability reaches the age  
19 of majority under State law (except for a child with  
20 a disability who has been determined to be incom-  
21 petent under State law)—

22                   “(A) the public agency shall provide any  
23 notice required by this section to both the indi-  
24 vidual and the parents;

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

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

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

9           “(2) SPECIAL RULE.—If, under State law, a  
10          child with a disability who has reached the age of  
11          majority under State law, who has not been deter-  
12          mined to be incompetent, but who is determined not  
13          to have the ability to provide informed consent with  
14          respect to the educational program of the child, the  
15          State shall establish procedures for appointing the  
16          parent of the child, or if the parent is not available,  
17          another appropriate individual, to represent the edu-  
18          cational interests of the child throughout the period  
19          of eligibility of the child under this part.

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

21       (a) WITHHOLDING OF PAYMENTS.—

22           “(1) IN GENERAL.—Whenever the Secretary,  
23           after reasonable notice and opportunity for hearing  
24           to the State educational agency involved (and to any

1 local educational agency or State agency affected by  
2 any failure described in subparagraph (B)), finds—

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

6 “(B) that there is a failure to comply with  
7 any condition of a local educational agency’s or  
8 State agency’s eligibility under this part, includ-  
9 ing the terms of any agreement to achieve com-  
10 pliance with this part within the timelines speci-  
11 fied in the agreement;

12 the Secretary shall, after notifying the State edu-  
13 cational agency, withhold, in whole or in part, any  
14 further payments to the State under this part, or  
15 refer the matter for appropriate enforcement action,  
16 which may include referral to the Department of  
17 Justice.

18 “(2) NATURE OF WITHHOLDING.—If the Sec-  
19 retary withholds further payments under paragraph  
20 (1), the Secretary may determine that such with-  
21 holding will be limited to programs or projects, or  
22 portions thereof, affected by the failure, or that the  
23 State educational agency shall not make further pay-  
24 ments under this part to specified local educational  
25 agencies or State agencies affected by the failure.

1       Until the Secretary is satisfied that there is no  
2       longer any failure to comply with the provisions of  
3       this part, as specified in subparagraph (A) or (B) of  
4       paragraph (1), payments to the State under this  
5       part shall be withheld in whole or in part, or pay-  
6       ments by the State educational agency under this  
7       part shall be limited to local educational agencies  
8       and State agencies whose actions did not cause or  
9       were not involved in the failure, as the case may be.  
10      Any State educational agency, State agency, or local  
11      educational agency that has received notice under  
12      paragraph (1) shall, by means of a public notice,  
13      take such measures as may be necessary to bring  
14      the pendency of an action pursuant to this sub-  
15      section to the attention of the public within the ju-  
16      risdiction of such agency.

17      “(b) JUDICIAL REVIEW.—

18           “(1) IN GENERAL.—If any State is dissatisfied  
19      with the Secretary’s final action with respect to the  
20      eligibility of the State under section 612, such State  
21      may, not later than 60 days after notice of such ac-  
22      tion, file with the United States court of appeals for  
23      the circuit in which such State is located a petition  
24      for review of that action. A copy of the petition shall  
25      be forthwith transmitted by the clerk of the court to

1 the Secretary. The Secretary thereupon shall file in  
2 the court the record of the proceedings upon which  
3 the Secretary's action was based, as provided in sec-  
4 tion 2112 of title 28, United States Code.

5 “(2) JURISDICTION; REVIEW BY UNITED  
6 STATES SUPREME COURT.—Upon the filing of such  
7 petition, the court shall have jurisdiction to affirm  
8 the action of the Secretary or to set it aside, in  
9 whole or in part. The judgment of the court shall be  
10 subject to review by the Supreme Court of the Unit-  
11 ed States upon certiorari or certification as provided  
12 in section 1254 of title 28, United States Code.

13 “(3) STANDARD OF REVIEW.—The findings of  
14 fact by the Secretary, if supported by substantial  
15 evidence, shall be conclusive, but the court, for good  
16 cause shown, may remand the case to the Secretary  
17 to take further evidence, and the Secretary may  
18 thereupon make new or modified findings of fact and  
19 may modify the Secretary's previous action, and  
20 shall file in the court the record of the further pro-  
21 ceedings. Such new or modified findings of fact shall  
22 likewise be conclusive if supported by substantial evi-  
23 dence.

24 “(c) DIVIDED STATE AGENCY RESPONSIBILITY.—For  
25 purposes of this section, where responsibility for ensuring

1 that the requirements of this part are met with respect  
2 to children with disabilities who are convicted as adults  
3 under State law and incarcerated in adult prisons is as-  
4 signed to a public agency other than the State educational  
5 agency pursuant to section 612(a)(11)(C), the Secretary,  
6 in instances where the Secretary finds that the failure to  
7 comply substantially with the provisions of this part are  
8 related to a failure by the public agency, shall take appro-  
9 priate corrective action to ensure compliance with this  
10 part, except—

11           “(1) any reduction or withholding of payments  
12           to the State is proportionate to the total funds allot-  
13           ted under section 611 to the State as the number of  
14           eligible children with disabilities in adult prisons  
15           under the supervision of the other public agency is  
16           proportionate to the number of eligible individuals  
17           with disabilities in the State under the supervision  
18           of the State educational agency; and

19           “(2) any withholding of funds under paragraph  
20           (1) shall be limited to the specific agency responsible  
21           for the failure to comply with this part.

22 **“SEC. 617. ADMINISTRATION.**

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

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

4                   “(A) the education of children with disabili-  
5           ities; and

6                   “(B) carrying out this part; and

7           “(2) provide short-term training programs and  
8           institutes.

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

14          “(c) CONFIDENTIALITY.—The Secretary shall take  
15          appropriate action, in accordance with the provisions of  
16          section 444 of the General Education Provisions Act (20  
17          U.S.C. 1232g), to assure the protection of the confiden-  
18          tiality of any personally identifiable data, information, and  
19          records collected or maintained by the Secretary and by  
20          State and local educational agencies pursuant to the provi-  
21          sions of this part.

22          “(d) PERSONNEL.—The Secretary is authorized to  
23          hire qualified personnel necessary to carry out the Sec-  
24          retary’s duties under subsection (a) and under sections  
25          618, 661, and 673 (or their predecessor authorities

1 through October 1, 1997) without regard to the provisions  
2 of title 5, United States Code, relating to appointments  
3 in the competitive service and without regard to chapter  
4 51 and subchapter III of chapter 53 of such title relating  
5 to classification and general schedule pay rates, except  
6 that no more than twenty such personnel shall be em-  
7 ployed at any time.

8 **“SEC. 618. PROGRAM INFORMATION.**

9       “(a) IN GENERAL.—Each State that receives assist-  
10 ance under this part, and the Secretary of the Interior,  
11 shall provide data each year to the Secretary—

12               “(1)(A) on—

13                       “(i) the number of children with disabil-  
14 ities, by race, ethnicity, and disability category,  
15 who are receiving a free appropriate public edu-  
16 cation;

17                       “(ii) the number of children with disabil-  
18 ities, by race and ethnicity, who are receiving  
19 early intervention services;

20                       “(iii) the number of children with disabil-  
21 ities, by race, ethnicity, and disability category,  
22 who are participating in regular education;

23                       “(iv) the number of children with disabil-  
24 ities, by race, ethnicity, and disability category,  
25 who are in separate classes, separate schools or

1 facilities, or public or private residential facili-  
2 ties;

3 “(v) the number of children with disabil-  
4 ities, by race, ethnicity, and disability category,  
5 who, for each year of age from age 14 to 21,  
6 stopped receiving special education and related  
7 services because of program completion or other  
8 reasons and the reasons why those children  
9 stopped receiving special education and related  
10 services;

11 “(vi) the number of children with disabil-  
12 ities, by race and ethnicity, who, from birth  
13 through age two, stopped receiving early inter-  
14 vention services because of program completion  
15 or for other reasons; and

16 “(vii)(I) the number of children with dis-  
17 abilities, by race, ethnicity, and disability cat-  
18 egory, who under subparagraphs (A)(ii) and  
19 (B) of section 615(k)(1), are removed to an in-  
20 terim alternative educational setting;

21 “(II) the acts or items precipitating those  
22 removals; and

23 “(III) the number of children with disabil-  
24 ities who are subject to long-term suspensions  
25 or expulsions; and

1           “(B) on the number of infants and toddlers, by  
2           race and ethnicity, who are at risk of having sub-  
3           stantial developmental delays (as described in sec-  
4           tion 632), and who are receiving early intervention  
5           services under part C; and

6           “(2) on any other information that may be re-  
7           quired by the Secretary.

8           “(b) SAMPLING.—The Secretary may permit States  
9           and the Secretary of the Interior to obtain the data de-  
10          scribed in subsection (a) through sampling.

11          “(c) DISPROPORTIONALITY.—

12           “(1) IN GENERAL.—Each State that receives  
13           assistance under this part, and the Secretary of the  
14           Interior, shall provide for the collection and exam-  
15           ination of data to determine if significant  
16           disproportionality based on race is occurring in the  
17           State with respect to—

18           “(A) the identification of children as chil-  
19           dren with disabilities, including the identifica-  
20           tion of children as children with disabilities in  
21           accordance with a particular impairment de-  
22           scribed in section 602(3); and

23           “(B) the placement in particular edu-  
24           cational settings of such children.

1           “(2) REVIEW AND REVISION OF POLICIES,  
2 PRACTICES, AND PROCEDURES.—In the case of a de-  
3 termination of significant disproportionality with re-  
4 spect to the identification of children as children  
5 with disabilities, or the placement in particular edu-  
6 cational settings of such children, in accordance with  
7 paragraph (1), the State or the Secretary of the In-  
8 terior, as the case may be, shall provide for the re-  
9 view and, if appropriate, revision of the policies, pro-  
10 cedures, and practices used in such identification or  
11 placement to ensure that such policies, procedures,  
12 and practices comply with the requirements of this  
13 Act.

14 **“SEC. 619. PRESCHOOL GRANTS.**

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

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

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

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

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

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

6           “(c) ALLOCATIONS TO STATES.—

7           “(1) IN GENERAL.—After reserving funds for  
8 studies and evaluations under section 674(e), the  
9 Secretary shall allocate the remaining amount  
10 among the States in accordance with paragraph (2)  
11 or (3), as the case may be.

12           “(2) INCREASE IN FUNDS.—If the amount  
13 available for allocations to States under paragraph  
14 (1) is equal to or greater than the amount allocated  
15 to the States under this section for the preceding  
16 fiscal year, those allocations shall be calculated as  
17 follows:

18           “(A)(i) Except as provided in subpara-  
19 graph (B), the Secretary shall—

20           “(I) allocate to each State the amount  
21 it received for fiscal year 1997;

22           “(II) allocate 85 percent of any re-  
23 maining funds to States on the basis of  
24 their relative populations of children aged  
25 3 through 5; and

1           “(III) allocate 15 percent of those re-  
2           maining funds to States on the basis of  
3           their relative populations of all children  
4           aged 3 through 5 who are living in poverty.

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

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

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

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

18                           “(I) the sum of—

19                                   “(aa) the amount it received  
20                                   for fiscal year 1997; and

21                                   “(bb) one third of one per-  
22                                   cent of the amount by which the  
23                                   amount appropriated under sub-  
24                                   section (j) exceeds the amount

1 appropriated under this section  
2 for fiscal year 1997;

3 “(II) the sum of—

4 “(aa) the amount it received  
5 for the preceding fiscal year; and

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

11 “(III) the sum of—

12 “(aa) the amount it received  
13 for the preceding fiscal year; and

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

19 “(iii) Notwithstanding clause (ii), no  
20 State’s allocation under this paragraph  
21 shall exceed the sum of—

22 “(I) the amount it received for  
23 the preceding fiscal year; and

24 “(II) that amount multiplied by  
25 the sum of 1.5 percent and the per-

1                   centage increase in the amount appro-  
2                   priated.

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

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

13                  “(A) If the amount available for allocations  
14                  is greater than the amount allocated to the  
15                  States for fiscal year 1997, each State shall be  
16                  allocated the sum of—

17                          “(i) the amount it received for fiscal  
18                          year 1997; and

19                          “(ii) an amount that bears the same  
20                          relation to any remaining funds as the in-  
21                          crease the State received for the preceding  
22                          fiscal year over fiscal year 1997 bears to  
23                          the total of all such increases for all  
24                          States.

1           “(B) If the amount available for alloca-  
2           tions is equal to or less than the amount allo-  
3           cated to the States for fiscal year 1997, each  
4           State shall be allocated the amount it received  
5           for that year, ratably reduced, if necessary.

6           “(4) OUTLYING AREAS.—The Secretary shall  
7           increase the fiscal year 1998 allotment of each outly-  
8           ing area under section 611 by at least the amount  
9           that that area received under this section for fiscal  
10          year 1997.

11          “(d) RESERVATION FOR STATE ACTIVITIES.—

12           “(1) IN GENERAL.—Each State may retain not  
13           more than the amount described in paragraph (2)  
14           for administration and other State-level activities in  
15           accordance with subsections (e) and (f).

16           “(2) AMOUNT DESCRIBED.—For each fiscal  
17           year, the Secretary shall determine and report to the  
18           State educational agency an amount that is 25 per-  
19           cent of the amount the State received under this sec-  
20           tion for fiscal year 1997, cumulatively adjusted by  
21           the Secretary for each succeeding fiscal year by the  
22           lesser of—

23           “(A) the percentage increase, if any, from  
24           the preceding fiscal year in the State’s alloca-  
25           tion under this section; or

1           “(B) the percentage increase, if any, from  
2           the preceding fiscal year in the Consumer Price  
3           Index For All Urban Consumers published by  
4           the Bureau of Labor Statistics of the Depart-  
5           ment of Labor.

6           “(e) STATE ADMINISTRATION.—

7           “(1) IN GENERAL.—For the purpose of admin-  
8           istering this section (including the coordination of  
9           activities under this part with, and providing tech-  
10          nical assistance to, other programs that provide  
11          services to children with disabilities) a State may  
12          use not more than 20 percent of the maximum  
13          amount it may retain under subsection (d) for any  
14          fiscal year.

15          “(2) ADMINISTRATION OF PART C.—Funds de-  
16          scribed in paragraph (1) may also be used for the  
17          administration of part C of this Act, if the State  
18          educational agency is the lead agency for the State  
19          under that part.

20          “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State  
21          shall use any funds it retains under subsection (d) and  
22          does not use for administration under subsection (e)—

23                 “(1) for support services (including establishing  
24                 and implementing the mediation process required by  
25                 section 615(e)), which may benefit children with dis-

1 abilities younger than 3 or older than 5 as long as  
2 those services also benefit children with disabilities  
3 aged 3 through 5;

4 “(2) for direct services for children eligible for  
5 services under this section;

6 “(3) to develop a State improvement plan under  
7 subpart 1 of part D;

8 “(4) for activities at the State and local levels  
9 to meet the performance goals established by the  
10 State under section 612(a)(16) and to support im-  
11 plementation of the State improvement plan under  
12 subpart 1 of part D if the State receives funds  
13 under that subpart; or

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

21 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
22 CIES.—

23 “(1) SUBGRANTS REQUIRED.—Each State that  
24 receives a grant under this section for any fiscal  
25 year shall distribute any of the grant funds that it

1 does not reserve under subsection (d) to local edu-  
2 cational agencies in the State that have established  
3 their eligibility under section 613, as follows:

4 “(A) BASE PAYMENTS.—The State shall  
5 first award each agency described in paragraph  
6 (1) the amount that agency would have received  
7 under this section for fiscal year 1997 if the  
8 State had distributed 75 percent of its grant for  
9 that year under section 619(c)(3), as then in ef-  
10 fect.

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

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

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

1           “(2) REALLOCATION OF FUNDS.—If a  
2           State educational agency determines that a  
3           local educational agency is adequately providing  
4           a free appropriate public education to all chil-  
5           dren with disabilities aged three through five  
6           residing in the area served by that agency with  
7           State and local funds, the State educational  
8           agency may reallocate any portion of the funds  
9           under this section that are not needed by that  
10          local agency to provide a free appropriate public  
11          education to other local educational agencies in  
12          the State that are not adequately providing spe-  
13          cial education and related services to all chil-  
14          dren with disabilities aged three through five  
15          residing in the areas they serve.

16          “(h) PART C INAPPLICABLE.—Part C of this Act  
17          does not apply to any child with a disability receiving a  
18          free appropriate public education, in accordance with this  
19          part, with funds received under this section.

20          “(i) DEFINITION.—For the purpose of this section,  
21          the term ‘State’ means each of the 50 States, the District  
22          of Columbia, and the Commonwealth of Puerto Rico.

23          “(j) AUTHORIZATION OF APPROPRIATIONS.—For the  
24          purpose of carrying out this section, there are authorized  
25          to be appropriated to the Secretary \$500,000,000 for fis-

1 cal year 1998 and such sums as may be necessary for each  
2 subsequent fiscal year.

3 **“PART C—INFANTS AND TODDLERS WITH**  
4 **DISABILITIES**

5 **“SEC. 631. FINDINGS AND POLICY.**

6 “(a) FINDINGS.—The Congress finds that there is an  
7 urgent and substantial need—

8 “(1) to enhance the development of infants and  
9 toddlers with disabilities and to minimize their po-  
10 tential for developmental delay;

11 “(2) to reduce the educational costs to our soci-  
12 ety, including our Nation’s schools, by minimizing  
13 the need for special education and related services  
14 after infants and toddlers with disabilities reach  
15 school age;

16 “(3) to minimize the likelihood of institutional-  
17 ization of individuals with disabilities and maximize  
18 the potential for their independently living in society;

19 “(4) to enhance the capacity of families to meet  
20 the special needs of their infants and toddlers with  
21 disabilities; and

22 “(5) to enhance the capacity of State and local  
23 agencies and service providers to identify, evaluate,  
24 and meet the needs of historically underrepresented

1 populations, particularly minority, low-income, inner-  
2 city, and rural populations.

3 “(b) POLICY.—It is therefore the policy of the United  
4 States to provide financial assistance to States—

5 “(1) to develop and implement a statewide,  
6 comprehensive, coordinated, multidisciplinary, inter-  
7 agency system that provides early intervention serv-  
8 ices for infants and toddlers with disabilities and  
9 their families;

10 “(2) to facilitate the coordination of payment  
11 for early intervention services from Federal, State,  
12 local, and private sources (including public and pri-  
13 vate insurance coverage);

14 “(3) to enhance their capacity to provide qual-  
15 ity early intervention services and expand and im-  
16 prove existing early intervention services being pro-  
17 vided to infants and toddlers with disabilities and  
18 their families; and

19 “(4) to encourage States to expand opportuni-  
20 ties for children under 3 years of age who would be  
21 at risk of having substantial developmental delay if  
22 they did not receive early intervention services.

23 **“SEC. 632. DEFINITIONS.**

24 “As used in this part:

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

6           “(2) COUNCIL.—The term ‘council’ means a  
7           State interagency coordinating council established  
8           under section 641.

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

13          “(4) EARLY INTERVENTION SERVICES.—The  
14          term ‘early intervention services’ means developmen-  
15          tal services that—

16                 “(A) are provided under public supervision;

17                 “(B) are provided at no cost except where  
18                 Federal or State law provides for a system of  
19                 payments by families, including a schedule of  
20                 sliding fees;

21                 “(C) are designed to meet the developmen-  
22                 tal needs of an infant or toddler with a disabili-  
23                 ty in any one or more of the following areas—

24                         “(i) physical development;

25                         “(ii) cognitive development;

1 “(iii) communication development;

2 “(iv) social or emotional development;

3 or

4 “(v) adaptive development;

5 “(D) meet the standards of the State in  
6 which they are provided, including the require-  
7 ments of this part;

8 “(E) include—

9 “(i) family training, counseling, and  
10 home visits;

11 “(ii) special instruction;

12 “(iii) speech-language pathology and  
13 audiology services;

14 “(iv) occupational therapy;

15 “(v) physical therapy;

16 “(vi) psychological services;

17 “(vii) service coordination services;

18 “(viii) medical services only for diag-  
19 nostic or evaluation purposes;

20 “(ix) early identification, screening,  
21 and assessment services;

22 “(x) health services necessary to en-  
23 able the infant or toddler to benefit from  
24 the other early intervention services;

25 “(xi) social work services;

1 “(xii) vision services;

2 “(xiii) assistive technology devices and  
3 assistive technology services; and

4 “(xiv) transportation and related costs  
5 that are necessary to enable an infant or  
6 toddler and the infant’s or toddler’s family  
7 to receive another service described in this  
8 paragraph;

9 “(F) are provided by qualified personnel,  
10 including—

11 “(i) special educators;

12 “(ii) speech-language pathologists and  
13 audiologists;

14 “(iii) occupational therapists;

15 “(iv) physical therapists;

16 “(v) psychologists;

17 “(vi) social workers;

18 “(vii) nurses;

19 “(viii) nutritionists;

20 “(ix) family therapists;

21 “(x) orientation and mobility special-  
22 ists; and

23 “(xi) pediatricians and other physi-  
24 cians;

1           “(G) to the maximum extent appropriate,  
2           are provided in natural environments, including  
3           the home, and community settings in which  
4           children without disabilities participate; and

5           “(H) are provided in conformity with an  
6           individualized family service plan adopted in ac-  
7           cordance with section 636.

8           “(5) INFANT OR TODDLER WITH A DISABIL-  
9           ITY.—The term ‘infant or toddler with a disabil-  
10          ity’—

11           “(A) means an individual under 3 years of  
12          age who needs early intervention services be-  
13          cause the individual—

14           “(i) is experiencing developmental  
15          delays, as measured by appropriate diag-  
16          nostic instruments and procedures in one  
17          or more of the areas of cognitive develop-  
18          ment, physical development, communica-  
19          tion development, social or emotional devel-  
20          opment, and adaptive development; or

21           “(ii) has a diagnosed physical or men-  
22          tal condition which has a high probability  
23          of resulting in developmental delay; and

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

1 **“SEC. 633. GENERAL AUTHORITY.**

2 “The Secretary shall, in accordance with this part,  
3 make grants to States (from their allotments under sec-  
4 tion 643) to assist each State to maintain and implement  
5 a statewide, comprehensive, coordinated, multidisciplinary,  
6 interagency system to provide early intervention services  
7 for infants and toddlers with disabilities and their families.

8 **“SEC. 634. ELIGIBILITY.**

9 “In order to be eligible for a grant under section 633,  
10 a State shall demonstrate to the Secretary that the  
11 State—

12 “(1) has adopted a policy that appropriate early  
13 intervention services are available to all infants and  
14 toddlers with disabilities in the State and their fami-  
15 lies, including Indian infants and toddlers with dis-  
16 abilities and their families residing on a reservation  
17 geographically located in the State; and

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

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

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

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

1           “(2) A State policy that is in effect and that  
2 ensures that appropriate early intervention services  
3 are available to all infants and toddlers with disabili-  
4 ties and their families, including Indian infants and  
5 toddlers and their families residing on a reservation  
6 geographically located in the State.

7           “(3) A timely, comprehensive, multidisciplinary  
8 evaluation of the functioning of each infant or tod-  
9 dler with a disability in the State, and a family-di-  
10 rected identification of the needs of each family of  
11 such an infant or toddler, to appropriately assist in  
12 the development of the infant or toddler.

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

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

23           “(6) A public awareness program focusing on  
24 early identification of infants and toddlers with dis-  
25 abilities, including the preparation and dissemination

1 by the lead agency designated or established under  
2 paragraph (10) to all primary referral sources, espe-  
3 cially hospitals and physicians, of information for  
4 parents on the availability of early intervention serv-  
5 ices, and procedures for determining the extent to  
6 which such sources disseminate such information to  
7 parents of infants and toddlers.

8 “(7) A central directory which includes infor-  
9 mation on early intervention services, resources, and  
10 experts available in the State and research and dem-  
11 onstration projects being conducted in the State.

12 “(8) A comprehensive system of personnel de-  
13 velopment, including the training of paraprofes-  
14 sionals and the training of primary referral sources  
15 respecting the basic components of early intervention  
16 services available in the State, that is consistent  
17 with the comprehensive system of personnel develop-  
18 ment described in section 612(a)(14) and may in-  
19 clude—

20 “(A) implementing innovative strategies  
21 and activities for the recruitment and retention  
22 of early education service providers;

23 “(B) promoting the preparation of early  
24 intervention providers who are fully and appro-

1           privately qualified to provide early intervention  
2           services under this part;

3           “(C) training personnel to work in rural  
4           and inner-city areas; and

5           “(D) training personnel to coordinate tran-  
6           sition services for infants and toddlers served  
7           under this part from an early intervention pro-  
8           gram under this part to preschool or other ap-  
9           propriate services.

10          “(9) Subject to subsection (b), policies and pro-  
11          cedures relating to the establishment and mainte-  
12          nance of standards to ensure that personnel nec-  
13          essary to carry out this part are appropriately and  
14          adequately prepared and trained, including—

15                 “(A) the establishment and maintenance of  
16                 standards which are consistent with any State-  
17                 approved or recognized certification, licensing,  
18                 registration, or other comparable requirements  
19                 which apply to the area in which such personnel  
20                 are providing early intervention services; and

21                 “(B) to the extent such standards are not  
22                 based on the highest requirements in the State  
23                 applicable to a specific profession or discipline,  
24                 the steps the State is taking to require the re-

1 training or hiring of personnel that meet appro-  
2 priate professional requirements in the State;  
3 except that nothing in this part, including this para-  
4 graph, prohibits the use of paraprofessionals and as-  
5 sistants who are appropriately trained and super-  
6 vised, in accordance with State law, regulations, or  
7 written policy, to assist in the provision of early  
8 intervention services to infants and toddlers with  
9 disabilities under this part.

10 “(10) A single line of responsibility in a lead  
11 agency designated or established by the Governor for  
12 carrying out—

13 “(A) the general administration and super-  
14 vision of programs and activities receiving as-  
15 sistance under section 633, and the monitoring  
16 of programs and activities used by the State to  
17 carry out this part, whether or not such pro-  
18 grams or activities are receiving assistance  
19 made available under section 633, to ensure  
20 that the State complies with this part;

21 “(B) the identification and coordination of  
22 all available resources within the State from  
23 Federal, State, local, and private sources;

1           “(C) the assignment of financial respon-  
2           sibility in accordance with section 637(a)(2) to  
3           the appropriate agencies;

4           “(D) the development of procedures to en-  
5           sure that services are provided to infants and  
6           toddlers with disabilities and their families  
7           under this part in a timely manner pending the  
8           resolution of any disputes among public agen-  
9           cies or service providers;

10           “(E) the resolution of intra- and inter-  
11           agency disputes; and

12           “(F) the entry into formal interagency  
13           agreements that define the financial responsibil-  
14           ity of each agency for paying for early interven-  
15           tion services (consistent with State law) and  
16           procedures for resolving disputes and that in-  
17           clude all additional components necessary to en-  
18           sure meaningful cooperation and coordination.

19           “(11) A policy pertaining to the contracting or  
20           making of other arrangements with service providers  
21           to provide early intervention services in the State,  
22           consistent with the provisions of this part, including  
23           the contents of the application used and the condi-  
24           tions of the contract or other arrangements.

1           “(12) A procedure for securing timely reim-  
2           bursements of funds used under this part in accord-  
3           ance with section 640(a).

4           “(13) Procedural safeguards with respect to  
5           programs under this part, as required by section  
6           639.

7           “(14) A system for compiling data requested by  
8           the Secretary under section 618 that relates to this  
9           part.

10          “(15) A State interagency coordinating council  
11          that meets the requirements of section 641.

12          “(16) Policies and procedures to ensure that,  
13          consistent with section 636(d)(5)—

14                 “(A) to the maximum extent appropriate,  
15                 early intervention services are provided in natu-  
16                 ral environments; and

17                 “(B) the provision of early intervention  
18                 services for any infant or toddler occurs in a  
19                 setting other than a natural environment only  
20                 when early intervention cannot be achieved sat-  
21                 isfactorily for the infant or toddler in a natural  
22                 environment.

23          “(b) POLICY.—In implementing subsection (a)(9), a  
24          State may adopt a policy that includes making ongoing  
25          good-faith efforts to recruit and hire appropriately and

1 adequately trained personnel to provide early intervention  
2 services to infants and toddlers with disabilities, including,  
3 in a geographic area of the State where there is a shortage  
4 of such personnel, the most qualified individuals available  
5 who are making satisfactory progress toward completing  
6 applicable course work necessary to meet the standards  
7 described in subsection (a)(9), consistent with State law  
8 within 3 years.

9 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

10 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—

11 A statewide system described in section 633 shall provide,  
12 at a minimum, for each infant or toddler with a disability,  
13 and the infant’s or toddler’s family, to receive—

14 “(1) a multidisciplinary assessment of the  
15 unique strengths and needs of the infant or toddler  
16 and the identification of services appropriate to meet  
17 such needs;

18 “(2) a family-directed assessment of the re-  
19 sources, priorities, and concerns of the family and  
20 the identification of the supports and services nec-  
21 essary to enhance the family’s capacity to meet the  
22 developmental needs of the infant or toddler; and

23 “(3) a written individualized family service plan  
24 developed by a multidisciplinary team, including the  
25 parents, as required by subsection (e).

1       “(b) PERIODIC REVIEW.—The individualized family  
2 service plan shall be evaluated once a year and the family  
3 shall be provided a review of the plan at 6-month intervals  
4 (or more often where appropriate based on infant or tod-  
5 dler and family needs).

6       “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-  
7 vidualized family service plan shall be developed within a  
8 reasonable time after the assessment required by sub-  
9 section (a)(1) is completed. With the parents’ consent,  
10 early intervention services may commence prior to the  
11 completion of the assessment.

12       “(d) CONTENT OF PLAN.—The individualized family  
13 service plan shall be in writing and contain—

14               “(1) a statement of the infant’s or toddler’s  
15 present levels of physical development, cognitive de-  
16 velopment, communication development, social or  
17 emotional development, and adaptive development,  
18 based on objective criteria;

19               “(2) a statement of the family’s resources, pri-  
20 orities, and concerns relating to enhancing the devel-  
21 opment of the family’s infant or toddler with a dis-  
22 ability;

23               “(3) a statement of the major outcomes ex-  
24 pected to be achieved for the infant or toddler and  
25 the family, and the criteria, procedures, and

1 timelines used to determine the degree to which  
2 progress toward achieving the outcomes is being  
3 made and whether modifications or revisions of the  
4 outcomes or services are necessary;

5 “(4) a statement of specific early intervention  
6 services necessary to meet the unique needs of the  
7 infant or toddler and the family, including the fre-  
8 quency, intensity, and method of delivering services;

9 “(5) a statement of the natural environments in  
10 which early intervention services shall appropriately  
11 be provided, including a justification of the extent,  
12 if any, to which the services will not be provided in  
13 a natural environment;

14 “(6) the projected dates for initiation of serv-  
15 ices and the anticipated duration of the services;

16 “(7) the identification of the service coordinator  
17 from the profession most immediately relevant to the  
18 infant’s or toddler’s or family’s needs (or who is oth-  
19 erwise qualified to carry out all applicable respon-  
20 sibilities under this part) who will be responsible for  
21 the implementation of the plan and coordination  
22 with other agencies and persons; and

23 “(8) the steps to be taken to support the transi-  
24 tion of the toddler with a disability to preschool or  
25 other appropriate services.

1       “(e) PARENTAL CONSENT.—The contents of the indi-  
2       vidualized family service plan shall be fully explained to  
3       the parents and informed written consent from the par-  
4       ents shall be obtained prior to the provision of early inter-  
5       vention services described in such plan. If the parents do  
6       not provide consent with respect to a particular early  
7       intervention service, then the early intervention services  
8       to which consent is obtained shall be provided.

9       **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

10       “(a) APPLICATION.—A State desiring to receive a  
11       grant under section 633 shall submit an application to the  
12       Secretary at such time and in such manner as the Sec-  
13       retary may reasonably require. The application shall con-  
14       tain—

15               “(1) a designation of the lead agency in the  
16       State that will be responsible for the administration  
17       of funds provided under section 633;

18               “(2) a designation of an individual or entity re-  
19       sponsible for assigning financial responsibility  
20       among appropriate agencies;

21               “(3) information demonstrating eligibility of the  
22       State under section 634, including—

23                       “(A) information demonstrating to the  
24       Secretary’s satisfaction that the State has in ef-

1           fect the statewide system required by section  
2           633; and

3           “(B) a description of services to be pro-  
4           vided to infants and toddlers with disabilities  
5           and their families through the system;

6           “(4) if the State provides services to at-risk in-  
7           fants and toddlers through the system, a description  
8           of such services;

9           “(5) a description of the uses for which funds  
10          will be expended in accordance with this part;

11          “(6) a description of the procedure used to en-  
12          sure that resources are made available under this  
13          part for all geographic areas within the State;

14          “(7) a description of State policies and proce-  
15          dures that ensure that, prior to the adoption by the  
16          State of any other policy or procedure necessary to  
17          meet the requirements of this part, there are public  
18          hearings, adequate notice of the hearings, and an  
19          opportunity for comment available to the general  
20          public, including individuals with disabilities and  
21          parents of infants and toddlers with disabilities;

22          “(8) a description of the policies and procedures  
23          to be used—

24                  “(A) to ensure a smooth transition for tod-  
25                  dlers receiving early intervention services under

1           this part to preschool or other appropriate serv-  
2           ices, including a description of how—

3                   “(i) the families of such toddlers will  
4                   be included in the transition plans required  
5                   by subparagraph (C); and

6                   “(ii) the lead agency designated or es-  
7                   tablished under section 635(a)(10) will—

8                           “(I) notify the local educational  
9                           agency for the area in which such a  
10                          child resides that the child will shortly  
11                          reach the age of eligibility for pre-  
12                          school services under part B, as deter-  
13                          mined in accordance with State law;

14                           “(II) in the case of a child who  
15                          may be eligible for such preschool  
16                          services, with the approval of the fam-  
17                          ily of the child, convene a conference  
18                          among the lead agency, the family,  
19                          and the local educational agency at  
20                          least 90 days (and at the discretion of  
21                          all such parties, up to 6 months) be-  
22                          fore the child is eligible for the pre-  
23                          school services, to discuss any such  
24                          services that the child may receive;  
25                          and

1                   “(III) in the case of a child who  
2                   may not be eligible for such preschool  
3                   services, with the approval of the fam-  
4                   ily, make reasonable efforts to con-  
5                   vene a conference among the lead  
6                   agency, the family, and providers of  
7                   other appropriate services for children  
8                   who are not eligible for preschool serv-  
9                   ices under part B, to discuss the ap-  
10                  propriate services that the child may  
11                  receive;

12                  “(B) to review the child’s program options  
13                  for the period from the child’s third birthday  
14                  through the remainder of the school year; and

15                  “(C) to establish a transition plan; and

16                  “(9) such other information and assurances as  
17                  the Secretary may reasonably require.

18                  “(b) ASSURANCES.—The application described in  
19                  subsection (a)—

20                  “(1) shall provide satisfactory assurance that  
21                  Federal funds made available under section 643 to  
22                  the State will be expended in accordance with this  
23                  part;

24                  “(2) shall contain an assurance that the State  
25                  will comply with the requirements of section 640;

1           “(3) shall provide satisfactory assurance that  
2           the control of funds provided under section 643, and  
3           title to property derived from those funds, will be in  
4           a public agency for the uses and purposes provided  
5           in this part and that a public agency will administer  
6           such funds and property;

7           “(4) shall provide for—

8                   “(A) making such reports in such form  
9                   and containing such information as the Sec-  
10                  retary may require to carry out the Secretary’s  
11                  functions under this part; and

12                   “(B) keeping such records and affording  
13                   such access to them as the Secretary may find  
14                   necessary to ensure the correctness and ver-  
15                   ification of those reports and proper disburse-  
16                   ment of Federal funds under this part;

17           “(5) provide satisfactory assurance that Federal  
18           funds made available under section 643 to the  
19           State—

20                   “(A) will not be commingled with State  
21                   funds; and

22                   “(B) will be used so as to supplement the  
23                   level of State and local funds expended for in-  
24                   fants and toddlers with disabilities and their

1 families and in no case to supplant those State  
2 and local funds;

3 “(6) shall provide satisfactory assurance that  
4 such fiscal control and fund accounting procedures  
5 will be adopted as may be necessary to ensure prop-  
6 er disbursement of, and accounting for, Federal  
7 funds paid under section 643 to the State;

8 “(7) shall provide satisfactory assurance that  
9 policies and procedures have been adopted to ensure  
10 meaningful involvement of underserved groups, in-  
11 cluding minority, low-income, and rural families, in  
12 the planning and implementation of all the require-  
13 ments of this part; and

14 “(8) shall contain such other information and  
15 assurances as the Secretary may reasonably require  
16 by regulation.

17 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-  
18 TION.—The Secretary may not disapprove such an appli-  
19 cation unless the Secretary determines, after notice and  
20 opportunity for a hearing, that the application fails to  
21 comply with the requirements of this section.

22 “(d) SUBSEQUENT STATE APPLICATION.—If a State  
23 has on file with the Secretary a policy, procedure, or as-  
24 surance that demonstrates that the State meets a require-  
25 ment of this section, including any policy or procedure

1 filed under part H (as in effect before July 1, 1998), the  
2 Secretary shall consider the State to have met the require-  
3 ment for purposes of receiving a grant under this part.

4 “(e) MODIFICATION OF APPLICATION.—An applica-  
5 tion submitted by a State in accordance with this section  
6 shall remain in effect until the State submits to the Sec-  
7 retary such modifications as the State determines nec-  
8 essary. This section shall apply to a modification of an  
9 application to the same extent and in the same manner  
10 as this section applies to the original application.

11 “(f) MODIFICATIONS REQUIRED BY THE SEC-  
12 RETARY.—The Secretary may require a State to modify  
13 its application under this section, but only to the extent  
14 necessary to ensure the State’s compliance with this part,  
15 if—

16 “(1) an amendment is made to this Act, or a  
17 Federal regulation issued under this Act;

18 “(2) a new interpretation of this Act is made by  
19 a Federal court or the State’s highest court; or

20 “(3) an official finding of noncompliance with  
21 Federal law or regulations is made with respect to  
22 the State.

1 **“SEC. 638. USES OF FUNDS.**

2 “In addition to using funds provided under section  
3 633 to maintain and implement the statewide system re-  
4 quired by such section, a State may use such funds—

5 “(1) for direct early intervention services for in-  
6 fants and toddlers with disabilities, and their fami-  
7 lies, under this part that are not otherwise funded  
8 through other public or private sources;

9 “(2) to expand and improve on services for in-  
10 fants and toddlers and their families under this part  
11 that are otherwise available;

12 “(3) to provide a free appropriate public edu-  
13 cation, in accordance with part B, to children with  
14 disabilities from their third birthday to the begin-  
15 ning of the following school year; and

16 “(4) in any State that does not provide services  
17 for at-risk infants and toddlers under section  
18 637(a)(4), to strengthen the statewide system by ini-  
19 tiating, expanding, or improving collaborative efforts  
20 related to at-risk infants and toddlers, including es-  
21 tablishing linkages with appropriate public or private  
22 community-based organizations, services, and per-  
23 sonnel for the purposes of—

24 “(A) identifying and evaluating at-risk in-  
25 fants and toddlers;

1           “(B) making referrals of the infants and  
2           toddlers identified and evaluated under sub-  
3           paragraph (A); and

4           “(C) conducting periodic follow-up on each  
5           such referral to determine if the status of the  
6           infant or toddler involved has changed with re-  
7           spect to the eligibility of the infant or toddler  
8           for services under this part.

9   **“SEC. 639. PROCEDURAL SAFEGUARDS.**

10       “(a) MINIMUM PROCEDURES.—The procedural safe-  
11       guards required to be included in a statewide system  
12       under section 635(a)(13) shall provide, at a minimum, the  
13       following:

14           “(1) The timely administrative resolution of  
15           complaints by parents. Any party aggrieved by the  
16           findings and decision regarding an administrative  
17           complaint shall have the right to bring a civil action  
18           with respect to the complaint in any State court of  
19           competent jurisdiction or in a district court of the  
20           United States without regard to the amount in con-  
21           troversy. In any action brought under this para-  
22           graph, the court shall receive the records of the ad-  
23           ministrative proceedings, shall hear additional evi-  
24           dence at the request of a party, and, basing its deci-  
25           sion on the preponderance of the evidence, shall

1 grant such relief as the court determines is appro-  
2 priate.

3 “(2) The right to confidentiality of personally  
4 identifiable information, including the right of par-  
5 ents to written notice of and written consent to the  
6 exchange of such information among agencies con-  
7 sistent with Federal and State law.

8 “(3) The right of the parents to determine  
9 whether they, their infant or toddler, or other family  
10 members will accept or decline any early intervention  
11 service under this part in accordance with State law  
12 without jeopardizing other early intervention services  
13 under this part.

14 “(4) The opportunity for parents to examine  
15 records relating to assessment, screening, eligibility  
16 determinations, and the development and implemen-  
17 tation of the individualized family service plan.

18 “(5) Procedures to protect the rights of the in-  
19 fant or toddler whenever the parents of the infant or  
20 toddler are not known or cannot be found or the in-  
21 fant or toddler is a ward of the State, including the  
22 assignment of an individual (who shall not be an em-  
23 ployee of the State lead agency, or other State agen-  
24 cy, and who shall not be any person, or any em-  
25 ployee of a person, providing early intervention serv-

1       ices to the infant or toddler or any family member  
2       of the infant or toddler) to act as a surrogate for the  
3       parents.

4               “(6) Written prior notice to the parents of the  
5       infant or toddler with a disability whenever the State  
6       agency or service provider proposes to initiate or  
7       change or refuses to initiate or change the identifica-  
8       tion, evaluation, or placement of the infant or tod-  
9       dler with a disability, or the provision of appropriate  
10      early intervention services to the infant or toddler.

11              “(7) Procedures designed to ensure that the no-  
12      tice required by paragraph (6) fully informs the par-  
13      ents, in the parents’ native language, unless it clear-  
14      ly is not feasible to do so, of all procedures available  
15      pursuant to this section.

16              “(8) The right of parents to use mediation in  
17      accordance with section 615(e), except that—

18                      “(A) any reference in the section to a  
19      State educational agency shall be considered to  
20      be a reference to a State’s lead agency estab-  
21      lished or designated under section 635(a)(10);

22                      “(B) any reference in the section to a local  
23      educational agency shall be considered to be a  
24      reference to a local service provider or the

1 State's lead agency under this part, as the case  
2 may be; and

3 “(C) any reference in the section to the  
4 provision of free appropriate public education to  
5 children with disabilities shall be considered to  
6 be a reference to the provision of appropriate  
7 early intervention services to infants and tod-  
8 dlers with disabilities.

9 “(b) SERVICES DURING PENDENCY OF PROCEED-  
10 INGS.—During the pendency of any proceeding or action  
11 involving a complaint by the parents of an infant or tod-  
12 dler with a disability, unless the State agency and the par-  
13 ents otherwise agree, the infant or toddler shall continue  
14 to receive the appropriate early intervention services cur-  
15 rently being provided or, if applying for initial services,  
16 shall receive the services not in dispute.

17 **“SEC. 640. PAYOR OF LAST RESORT.**

18 “(a) NONSUBSTITUTION.—Funds provided under  
19 section 643 may not be used to satisfy a financial commit-  
20 ment for services that would have been paid for from an-  
21 other public or private source, including any medical pro-  
22 gram administered by the Secretary of Defense, but for  
23 the enactment of this part, except that whenever consid-  
24 ered necessary to prevent a delay in the receipt of appro-  
25 priate early intervention services by an infant, toddler, or

1 family in a timely fashion, funds provided under section  
2 643 may be used to pay the provider of services pending  
3 reimbursement from the agency that has ultimate respon-  
4 sibility for the payment.

5 “(b) REDUCTION OF OTHER BENEFITS—Nothing in  
6 this part shall be construed to permit the State to reduce  
7 medical or other assistance available or to alter eligibility  
8 under title V of the Social Security Act (relating to mater-  
9 nal and child health) or title XIX of the Social Security  
10 Act (relating to medicaid for infants or toddlers with dis-  
11 abilities) within the State.

12 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

13 “(a) ESTABLISHMENT.—

14 “(1) IN GENERAL.—A State that desires to re-  
15 ceive financial assistance under this part shall estab-  
16 lish a State interagency coordinating council.

17 “(2) APPOINTMENT.—The council shall be ap-  
18 pointed by the Governor. In making appointments to  
19 the council, the Governor shall ensure that the mem-  
20 bership of the council reasonably represents the pop-  
21 ulation of the State.

22 “(3) CHAIRPERSON.—The Governor shall des-  
23 ignate a member of the council to serve as the chair-  
24 person of the council, or shall require the council to  
25 so designate such a member. Any member of the

1 council who is a representative of the lead agency  
2 designated under section 635(a)(10) may not serve  
3 as the chairperson of the council.

4 “(b) COMPOSITION.—

5 “(1) IN GENERAL.—The council shall be com-  
6 posed as follows:

7 “(A) PARENTS.—At least 20 percent of  
8 the members shall be parents of infants or tod-  
9 dlers with disabilities or children with disabili-  
10 ties aged 12 or younger, with knowledge of, or  
11 experience with, programs for infants and tod-  
12 dlers with disabilities. At least one such mem-  
13 ber shall be a parent of an infant or toddler  
14 with a disability or a child with a disability  
15 aged 6 or younger.

16 “(B) SERVICE PROVIDERS.—At least 20  
17 percent of the members shall be public or pri-  
18 vate providers of early intervention services.

19 “(C) STATE LEGISLATURE.—At least one  
20 member shall be from the State legislature.

21 “(D) PERSONNEL PREPARATION.—At least  
22 one member shall be involved in personnel prep-  
23 aration.

24 “(E) AGENCY FOR EARLY INTERVENTION  
25 SERVICES.—At least one member shall be from

1 each of the State agencies involved in the provi-  
2 sion of, or payment for, early intervention serv-  
3 ices to infants and toddlers with disabilities and  
4 their families and shall have sufficient authority  
5 to engage in policy planning and implementa-  
6 tion on behalf of such agencies.

7 “(F) AGENCY FOR PRESCHOOL SERV-  
8 ICES.—At least one member shall be from the  
9 State educational agency responsible for pre-  
10 school services to children with disabilities and  
11 shall have sufficient authority to engage in pol-  
12 icy planning and implementation on behalf of  
13 such agency.

14 “(G) AGENCY FOR HEALTH INSURANCE.—  
15 At least one member shall be from the agency  
16 responsible for the State governance of health  
17 insurance.

18 “(H) HEAD START AGENCY.—At least one  
19 representative from a Head Start agency or  
20 program in the State.

21 “(I) CHILD CARE AGENCY.—At least one  
22 representative from a State agency responsible  
23 for child care.

24 “(2) OTHER MEMBERS.—The council may in-  
25 clude other members selected by the Governor, in-

1 including a representative from the Bureau of Indian  
2 Affairs, or where there is no BIA-operated or BIA-  
3 funded school, from the Indian Health Service or the  
4 tribe or tribal council.

5 “(c) MEETINGS.—The council shall meet at least  
6 quarterly and in such places as it deems necessary. The  
7 meetings shall be publicly announced, and, to the extent  
8 appropriate, open and accessible to the general public.

9 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-  
10 proval of the Governor, the council may prepare and ap-  
11 prove a budget using funds under this part to conduct  
12 hearings and forums, to reimburse members of the council  
13 for reasonable and necessary expenses for attending coun-  
14 cil meetings and performing council duties (including child  
15 care for parent representatives), to pay compensation to  
16 a member of the council if the member is not employed  
17 or must forfeit wages from other employment when per-  
18 forming official council business, to hire staff, and to ob-  
19 tain the services of such professional, technical, and cleri-  
20 cal personnel as may be necessary to carry out its func-  
21 tions under this part.

22 “(e) FUNCTIONS OF COUNCIL.—

23 “(1) DUTIES.—The council shall—

24 “(A) advise and assist the lead agency des-  
25 ignated or established under section 635(a)(10)

1 in the performance of the responsibilities set  
2 forth in such section, particularly the identifica-  
3 tion of the sources of fiscal and other support  
4 for services for early intervention programs, as-  
5 signment of financial responsibility to the ap-  
6 propriate agency, and the promotion of the  
7 interagency agreements;

8 “(B) advise and assist the lead agency in  
9 the preparation of applications and amend-  
10 ments thereto;

11 “(C) advise and assist the State edu-  
12 cational agency regarding the transition of tod-  
13 dlers with disabilities to preschool and other ap-  
14 propriate services; and

15 “(D) prepare and submit an annual report  
16 to the Governor and to the Secretary on the  
17 status of early intervention programs for in-  
18 fants and toddlers with disabilities and their  
19 families operated within the State.

20 “(2) AUTHORIZED ACTIVITY.—The council may  
21 advise and assist the lead agency and the State edu-  
22 cational agency regarding the provision of appro-  
23 priate services for children from birth through age  
24 5. The council may advise appropriate agencies in  
25 the State with respect to the integration of services

1 for infants and toddlers with disabilities and at-risk  
2 infants and toddlers and their families, regardless of  
3 whether at-risk infants and toddlers are eligible for  
4 early intervention services in the State.

5 “(f) CONFLICT OF INTEREST.—No member of the  
6 council shall cast a vote on any matter that would provide  
7 direct financial benefit to that member or otherwise give  
8 the appearance of a conflict of interest under State law.

9 **“SEC. 642. FEDERAL ADMINISTRATION.**

10 “Sections 616, 617, and 618 shall, to the extent not  
11 inconsistent with this part, apply to the program author-  
12 ized by this part, except that—

13 “(1) any reference in such sections to a State  
14 educational agency shall be considered to be a ref-  
15 erence to a State’s lead agency established or des-  
16 igned under section 635(a)(10);

17 “(2) any reference in such sections to a local  
18 educational agency, educational service agency, or a  
19 State agency shall be considered to be a reference to  
20 an early intervention service provider under this  
21 part; and

22 “(3) any reference to the education of children  
23 with disabilities or the education of all children with  
24 disabilities shall be considered to be a reference to

1 the provision of appropriate early intervention serv-  
2 ices to infants and toddlers with disabilities.

3 **“SEC. 643. ALLOCATION OF FUNDS.**

4 “(a) RESERVATION OF FUNDS FOR OUTLYING  
5 AREAS.—

6 “(1) IN GENERAL.—From the sums appro-  
7 priated to carry out this part for any fiscal year, the  
8 Secretary may reserve up to one percent for pay-  
9 ments to Guam, American Samoa, the Virgin Is-  
10 lands, and the Commonwealth of the Northern Mari-  
11 ana Islands in accordance with their respective  
12 needs.

13 “(2) CONSOLIDATION OF FUNDS.—The provi-  
14 sions of Public Law 95–134, permitting the consoli-  
15 dation of grants to the outlying areas, shall not  
16 apply to funds those areas receive under this part.

17 “(b) PAYMENTS TO INDIANS.—

18 “(1) IN GENERAL.—The Secretary shall, sub-  
19 ject to this subsection, make payments to the Sec-  
20 retary of the Interior to be distributed to tribes,  
21 tribal organizations (as defined under section 4 of  
22 the Indian Self-Determination and Education Assist-  
23 ance Act), or consortia of the above entities for the  
24 coordination of assistance in the provision of early  
25 intervention services by the States to infants and

1 toddlers with disabilities and their families on res-  
2 ervations served by elementary and secondary  
3 schools for Indian children operated or funded by  
4 the Department of the Interior. The amount of such  
5 payment for any fiscal year shall be 1.25 percent of  
6 the aggregate of the amount available to all States  
7 under this part for such fiscal year.

8 “(2) ALLOCATION.—For each fiscal year, the  
9 Secretary of the Interior shall distribute the entire  
10 payment received under paragraph (1) by providing  
11 to each tribe, tribal organization, or consortium an  
12 amount based on the number of infants and toddlers  
13 residing on the reservation, as determined annually,  
14 divided by the total of such children served by all  
15 tribes, tribal organizations, or consortia.

16 “(3) INFORMATION.—To receive a payment  
17 under this subsection, the tribe, tribal organization,  
18 or consortium shall submit such information to the  
19 Secretary of the Interior as is needed to determine  
20 the amounts to be distributed under paragraph (2).

21 “(4) USE OF FUNDS.—The funds received by a  
22 tribe, tribal organization, or consortium shall be  
23 used to assist States in child-find, screening, and  
24 other procedures for the early identification of In-  
25 dian children under 3 years of age and for parent

1 training. Such funds may also be used to provide  
2 early intervention services in accordance with this  
3 part. Such activities may be carried out directly or  
4 through contracts or cooperative agreements with  
5 the BIA, local educational agencies, and other public  
6 or private nonprofit organizations. The tribe, tribal  
7 organization, or consortium is encouraged to involve  
8 Indian parents in the development and implementa-  
9 tion of these activities. The above entities shall, as  
10 appropriate, make referrals to local, State, or Fed-  
11 eral entities for the provision of services or further  
12 diagnosis.

13 “(5) REPORTS.—To be eligible to receive a  
14 grant under paragraph (2), a tribe, tribal organiza-  
15 tion, or consortium shall make a biennial report to  
16 the Secretary of the Interior of activities undertaken  
17 under this subsection, including the number of con-  
18 tracts and cooperative agreements entered into, the  
19 number of children contacted and receiving services  
20 for each year, and the estimated number of children  
21 needing services during the 2 years following the  
22 year in which the report is made. The Secretary of  
23 the Interior shall include a summary of this informa-  
24 tion on a biennial basis to the Secretary of Edu-  
25 cation along with such other information as required

1 under section 611(i)(3)(E). The Secretary of Edu-  
2 cation may require any additional information from  
3 the Secretary of the Interior.

4 “(6) PROHIBITED USES OF FUNDS.—None of  
5 the funds under this subsection may be used by the  
6 Secretary of the Interior for administrative pur-  
7 poses, including child count, and the provision of  
8 technical assistance.

9 “(c) STATE ALLOTMENTS.—

10 “(1) IN GENERAL.—Except as provided in para-  
11 graphs (2), (3), and (4), from the funds remaining  
12 for each fiscal year after the reservation and pay-  
13 ments under subsections (a) and (b), the Secretary  
14 shall first allot to each State an amount that bears  
15 the same ratio to the amount of such remainder as  
16 the number of infants and toddlers in the State  
17 bears to the number of infants and toddlers in all  
18 States.

19 “(2) MINIMUM ALLOTMENTS.—Except as pro-  
20 vided in paragraphs (3) and (4), no State shall re-  
21 ceive an amount under this section for any fiscal  
22 year that is less than the greatest of—

23 “(A) one-half of one percent of the remain-  
24 ing amount described in paragraph (1); or

25 “(B) \$500,000.

1 “(3) SPECIAL RULE FOR 1998 AND 1999.—

2 “(A) IN GENERAL.—Except as provided in  
3 paragraph (4), no State may receive an amount  
4 under this section for either fiscal year 1998 or  
5 1999 that is less than the sum of the amounts  
6 such State received for fiscal year 1994  
7 under—

8 “(i) part H (as in effect for such fis-  
9 cal year); and

10 “(ii) subpart 2 of part D of chapter 1  
11 of title I of the Elementary and Secondary  
12 Education Act of 1965 (as in effect on the  
13 day before the date of the enactment of the  
14 Improving America’s Schools Act of 1994)  
15 for children with disabilities under 3 years  
16 of age.

17 “(B) EXCEPTION.—If, for fiscal year 1998  
18 or 1999, the number of infants and toddlers in  
19 a State, as determined under paragraph (1), is  
20 less than the number of infants and toddlers so  
21 determined for fiscal year 1994, the amount de-  
22 termined under subparagraph (A) for the State  
23 shall be reduced by the same percentage by  
24 which the number of such infants and toddlers  
25 so declined.

1           “(4) RATABLE REDUCTION.—

2                   “(A) IN GENERAL.—If the sums made  
3 available under this part for any fiscal year are  
4 insufficient to pay the full amounts that all  
5 States are eligible to receive under this sub-  
6 section for such year, the Secretary shall rat-  
7 ably reduce the allotments to such States for  
8 such year.

9                   “(B) ADDITIONAL FUNDS.—If additional  
10 funds become available for making payments  
11 under this subsection for a fiscal year, allot-  
12 ments that were reduced under subparagraph  
13 (A) shall be increased on the same basis they  
14 were reduced.

15           “(5) DEFINITIONS.—For the purpose of this  
16 subsection—

17                   “(A) the terms ‘infants’ and ‘toddlers’  
18 mean children under 3 years of age; and

19                   “(B) the term ‘State’ means each of the 50  
20 States, the District of Columbia, and the Com-  
21 monwealth of Puerto Rico.

22           “(d) REALLOTMENT OF FUNDS.—If a State elects  
23 not to receive its allotment under subsection (c), the Sec-  
24 retary shall realLOT, among the remaining States, amounts  
25 from such State in accordance with such subsection.

1 **“SEC. 644. FEDERAL INTERAGENCY COORDINATING COUN-**  
2 **CIL.**

3 “(a) ESTABLISHMENT AND PURPOSE.—

4 “(1) IN GENERAL.—The Secretary shall estab-  
5 lish a Federal Interagency Coordinating Council in  
6 order to—

7 “(A) minimize duplication of programs and  
8 activities across Federal, State, and local agen-  
9 cies, relating to—

10 “(i) early intervention services for in-  
11 fants and toddlers with disabilities (includ-  
12 ing at-risk infants and toddlers) and their  
13 families; and

14 “(ii) preschool or other appropriate  
15 services for children with disabilities;

16 “(B) ensure the effective coordination of  
17 Federal early intervention and preschool pro-  
18 grams and policies across Federal agencies;

19 “(C) coordinate the provision of Federal  
20 technical assistance and support activities to  
21 States;

22 “(D) identify gaps in Federal agency pro-  
23 grams and services; and

24 “(E) identify barriers to Federal inter-  
25 agency cooperation.

1           “(2) APPOINTMENTS.—The council established  
2           under paragraph (1) (hereafter in this section re-  
3           ferred to as the “Council”) and the chairperson of  
4           the Council shall be appointed by the Secretary in  
5           consultation with other appropriate Federal agen-  
6           cies. In making the appointments, the Secretary  
7           shall ensure that each member has sufficient author-  
8           ity to engage in policy planning and implementation  
9           on behalf of the department, agency, or program  
10          that the member represents.

11          “(b) COMPOSITION.—The Council shall be composed  
12          of—

13                 “(1) a representative of the Office of Special  
14                 Education Programs;

15                 “(2) a representative of the National Institute  
16                 on Disability and Rehabilitation Research and a rep-  
17                 resentative of the Office of Educational Research  
18                 and Improvement;

19                 “(3) a representative of the Maternal and Child  
20                 Health Services Block Grant Program;

21                 “(4) a representative of programs administered  
22                 under the Developmental Disabilities Assistance and  
23                 Bill of Rights Act;

24                 “(5) a representative of the Health Care Fi-  
25                 nancing Administration;

1           “(6) a representative of the Division of Birth  
2 Defects and Developmental Disabilities of the Cen-  
3 ters for Disease Control;

4           “(7) a representative of the Social Security Ad-  
5 ministration;

6           “(8) a representative of the special supple-  
7 mental nutrition program for women, infants, and  
8 children of the Department of Agriculture;

9           “(9) a representative of the National Institute  
10 of Mental Health;

11           “(10) a representative of the National Institute  
12 of Child Health and Human Development;

13           “(11) a representative of the Bureau of Indian  
14 Affairs of the Department of the Interior;

15           “(12) a representative of the Indian Health  
16 Service;

17           “(13) a representative of the Surgeon General;

18           “(14) a representative of the Department of  
19 Defense;

20           “(15) a representative of the Children’s Bu-  
21 reau, and a representative of the Head Start Bu-  
22 reau, of the Administration for Children and Fami-  
23 lies;

24           “(16) a representative of the Substance Abuse  
25 and Mental Health Services Administration;

1           “(17) a representative of the Pediatric AIDS  
2 Health Care Demonstration Program in the Public  
3 Health Service;

4           “(18) parents of children with disabilities age  
5 12 or under (who shall constitute at least 20 percent  
6 of the members of the Council), of whom at least  
7 one must have a child with a disability under the  
8 age of 6;

9           “(19) at least 2 representatives of State lead  
10 agencies for early intervention services to infants  
11 and toddlers, one of whom must be a representative  
12 of a State educational agency and the other a rep-  
13 resentative of a non-educational agency;

14           “(20) other members representing appropriate  
15 agencies involved in the provision of, or payment for,  
16 early intervention services and special education and  
17 related services to infants and toddlers with disabil-  
18 ities and their families and preschool children with  
19 disabilities; and

20           “(21) other persons appointed by the Secretary.

21           “(c) MEETINGS.—The Council shall meet at least  
22 quarterly and in such places as the Council deems nec-  
23 essary. The meetings shall be publicly announced, and, to  
24 the extent appropriate, open and accessible to the general  
25 public.

1       “(d) FUNCTIONS OF THE COUNCIL.—The Council  
2 shall—

3           “(1) advise and assist the Secretary of Edu-  
4 cation, the Secretary of Health and Human Services,  
5 the Secretary of Defense, the Secretary of the Inte-  
6 rior, the Secretary of Agriculture, and the Commis-  
7 sioner of Social Security in the performance of their  
8 responsibilities related to serving children from birth  
9 through age 5 who are eligible for services under  
10 this part or under part B;

11           “(2) conduct policy analyses of Federal pro-  
12 grams related to the provision of early intervention  
13 services and special educational and related services  
14 to infants and toddlers with disabilities and their  
15 families, and preschool children with disabilities, in  
16 order to determine areas of conflict, overlap, duplica-  
17 tion, or inappropriate omission;

18           “(3) identify strategies to address issues de-  
19 scribed in paragraph (2);

20           “(4) develop and recommend joint policy memo-  
21 randa concerning effective interagency collaboration,  
22 including modifications to regulations, and the elimi-  
23 nation of barriers to interagency programs and ac-  
24 tivities;

1           “(5) coordinate technical assistance and dis-  
2           seminate information on best practices, effective pro-  
3           gram coordination strategies, and recommendations  
4           for improved early intervention programming for in-  
5           fants and toddlers with disabilities and their families  
6           and preschool children with disabilities; and

7           “(6) facilitate activities in support of States’  
8           interagency coordination efforts.

9           “(e) CONFLICT OF INTEREST.—No member of the  
10          Council shall cast a vote on any matter that would provide  
11          direct financial benefit to that member or otherwise give  
12          the appearance of a conflict of interest under Federal law.

13          “(f) FEDERAL ADVISORY COMMITTEE ACT.—The  
14          Federal Advisory Committee Act (5 U.S.C. App.) shall not  
15          apply to the establishment or operation of the Council.

16          **“SEC. 645. AUTHORIZATION OF APPROPRIATIONS.**

17          “For the purpose of carrying out this part, there are  
18          authorized to be appropriated \$400,000,000 for fiscal year  
19          1998 and such sums as may be necessary for each of the  
20          fiscal years 1999 through 2002.

1    **“PART D—NATIONAL ACTIVITIES TO IMPROVE**  
2    **EDUCATION OF CHILDREN WITH DISABILITIES**  
3    **“Subpart 1—State Program Improvement Grants for**  
4                    **Children with Disabilities**

5    **“SEC. 651. FINDINGS AND PURPOSE.**

6            “(a) FINDINGS.—The Congress finds the following:

7                    “(1) States are responding with some success to  
8                    multiple pressures to improve educational and tran-  
9                    sitional services and results for children with disabil-  
10                   ities in response to growing demands imposed by  
11                   ever-changing factors, such as demographics, social  
12                   policies, and labor and economic markets.

13                   “(2) In order for States to address such de-  
14                   mands and to facilitate lasting systemic change that  
15                   is of benefit to all students, including children with  
16                   disabilities, States must involve local educational  
17                   agencies, parents, individuals with disabilities and  
18                   their families, teachers and other service providers,  
19                   and other interested individuals and organizations in  
20                   carrying out comprehensive strategies to improve  
21                   educational results for children with disabilities.

22                   “(3) Targeted Federal financial resources are  
23                   needed to assist States, working in partnership with  
24                   others, to identify and make needed changes to ad-  
25                   dress the needs of children with disabilities into the  
26                   next century.

1           “(4) State educational agencies, in partnership  
2           with local educational agencies and other individuals  
3           and organizations, are in the best position to iden-  
4           tify and design ways to meet emerging and expand-  
5           ing demands to improve education for children with  
6           disabilities and to address their special needs.

7           “(5) Research, demonstration, and practice over  
8           the past 20 years in special education and related  
9           disciplines have built a foundation of knowledge on  
10          which State and local systemic-change activities can  
11          now be based.

12          “(6) Such research, demonstration, and practice  
13          in special education and related disciplines have  
14          demonstrated that an effective educational system  
15          now and in the future must—

16                 “(A) maintain high academic standards  
17                 and clear performance goals for children with  
18                 disabilities, consistent with the standards and  
19                 expectations for all students in the educational  
20                 system, and provide for appropriate and effec-  
21                 tive strategies and methods to ensure that stu-  
22                 dents who are children with disabilities have  
23                 maximum opportunities to achieve those stand-  
24                 ards and goals;

1           “(B) create a system that fully addresses  
2           the needs of all students, including children  
3           with disabilities, by addressing the needs of  
4           children with disabilities in carrying out edu-  
5           cational reform activities;

6           “(C) clearly define, in measurable terms,  
7           the school and post-school results that children  
8           with disabilities are expected to achieve;

9           “(D) promote service integration, and the  
10          coordination of State and local education, so-  
11          cial, health, mental health, and other services,  
12          in addressing the full range of student needs,  
13          particularly the needs of children with disabil-  
14          ities who require significant levels of support to  
15          maximize their participation and learning in  
16          school and the community;

17          “(E) ensure that children with disabilities  
18          are provided assistance and support in making  
19          transitions as described in section 674(b)(3)(C);

20          “(F) promote comprehensive programs of  
21          professional development to ensure that the per-  
22          sons responsible for the education or a transi-  
23          tion of children with disabilities possess the  
24          skills and knowledge necessary to address the  
25          educational and related needs of those children;

1           “(G) disseminate to teachers and other  
2           personnel serving children with disabilities re-  
3           search-based knowledge about successful teach-  
4           ing practices and models and provide technical  
5           assistance to local educational agencies and  
6           schools on how to improve results for children  
7           with disabilities;

8           “(H) create school-based disciplinary strat-  
9           egies that will be used to reduce or eliminate  
10          the need to use suspension and expulsion as  
11          disciplinary options for children with disabil-  
12          ities;

13          “(I) establish placement-neutral funding  
14          formulas and cost-effective strategies for meet-  
15          ing the needs of children with disabilities; and

16          “(J) involve individuals with disabilities  
17          and parents of children with disabilities in plan-  
18          ning, implementing, and evaluating systemic-  
19          change activities and educational reforms.

20          “(b) PURPOSE.—The purpose of this subpart is to  
21          assist State educational agencies, and their partners re-  
22          ferred to in section 652(b), in reforming and improving  
23          their systems for providing educational, early intervention,  
24          and transitional services, including their systems for pro-  
25          fessional development, technical assistance, and dissemi-

1 nation of knowledge about best practices, to improve re-  
2 sults for children with disabilities.

3 **“SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.**

4 “(a) ELIGIBLE APPLICANTS.—A State educational  
5 agency may apply for a grant under this subpart for a  
6 grant period of not less than 1 year and not more than  
7 5 years.

8 “(b) PARTNERS.—

9 “(1) REQUIRED PARTNERS.—

10 “(A) CONTRACTUAL PARTNERS.—In order  
11 to be considered for a grant under this subpart,  
12 a State educational agency shall establish a  
13 partnership with local educational agencies and  
14 other State agencies involved in, or concerned  
15 with, the education of children with disabilities.

16 “(B) OTHER PARTNERS.—In order to be  
17 considered for a grant under this subpart, a  
18 State educational agency shall work in partner-  
19 ship with other persons and organizations in-  
20 volved in, and concerned with, the education of  
21 children with disabilities, including—

22 “(i) the Governor;

23 “(ii) parents of children with disabil-  
24 ities;

25 “(iii) parents of nondisabled children;

1 “(iv) individuals with disabilities;

2 “(v) organizations representing indi-  
3 viduals with disabilities and their parents,  
4 such as parent training and information  
5 centers;

6 “(vi) community-based and other non-  
7 profit organizations involved in the edu-  
8 cation and employment of individuals with  
9 disabilities;

10 “(vii) the lead State agency for part  
11 C;

12 “(viii) general and special education  
13 teachers, and early intervention personnel;

14 “(ix) the State advisory panel estab-  
15 lished under part C;

16 “(x) the State interagency coordinat-  
17 ing council established under part C; and

18 “(xi) institutions of higher education  
19 within the State.

20 “(2) OPTIONAL PARTNERS.—A partnership  
21 under subparagraph (A) or (B) of paragraph (1)  
22 may also include—

23 “(A) individuals knowledgeable about voca-  
24 tional education;

1           “(B) the State agency for higher edu-  
2           cation;

3           “(C) the State vocational rehabilitation  
4           agency;

5           “(D) public agencies with jurisdiction in  
6           the areas of health, mental health, social serv-  
7           ices, and juvenile justice; and

8           “(E) other individuals.

9   **“SEC. 653. APPLICATIONS.**

10       “(a) IN GENERAL.—

11           “(1) SUBMISSION.—A State educational agency  
12           that desires to receive a grant under this subpart  
13           shall submit to the Secretary an application at such  
14           time, in such manner, and including such informa-  
15           tion as the Secretary may require.

16           “(2) STATE IMPROVEMENT PLAN.—The appli-  
17           cation shall include a State improvement plan that—

18                   “(A) is integrated, to the maximum extent  
19                   possible, with State plans under the Elementary  
20                   and Secondary Education Act of 1965 and the  
21                   Rehabilitation Act of 1973, as appropriate; and

22                   “(B) meets the requirements of this sec-  
23                   tion.

24       “(b) DETERMINING CHILD AND PROGRAM NEEDS.—

1           “(1) IN GENERAL.—Each State improvement  
2 plan shall identify those critical aspects of early  
3 intervention, general education, and special edu-  
4 cation programs (including professional development,  
5 based on an assessment of State and local needs)  
6 that must be improved to enable children with dis-  
7 abilities to meet the goals established by the State  
8 under section 612(a)(16).

9           “(2) REQUIRED ANALYSES.—To meet the re-  
10 quirement of paragraph (1), the State improvement  
11 plan shall include at least—

12                   “(A) an analysis of all information, reason-  
13 ably available to the State educational agency,  
14 on the performance of children with disabilities  
15 in the State, including—

16                           “(i) their performance on State as-  
17 sessments and other performance indica-  
18 tors established for all children, including  
19 drop-out rates and graduation rates;

20                           “(ii) their participation in postsecond-  
21 ary education and employment; and

22                           “(iii) how their performance on the  
23 assessments and indicators described in  
24 clause (i) compares to that of non-disabled  
25 children;

1           “(B) an analysis of State and local needs  
2 for professional development for personnel to  
3 serve children with disabilities that includes, at  
4 a minimum—

5                   “(i) the number of personnel provid-  
6 ing special education and related services;  
7 and

8                   “(ii) relevant information on current  
9 and anticipated personnel vacancies and  
10 shortages (including the number of individ-  
11 uals described in clause (i) with temporary  
12 certification), and on the extent of certifi-  
13 cation or retraining necessary to eliminate  
14 such shortages, that is based, to the maxi-  
15 mum extent possible, on existing assess-  
16 ments of personnel needs;

17           “(C) an analysis of the major findings of  
18 the Secretary’s most recent reviews of State  
19 compliance, as they relate to improving results  
20 for children with disabilities; and

21           “(D) an analysis of other information, rea-  
22 sonably available to the State, on the effective-  
23 ness of the State’s systems of early interven-  
24 tion, special education, and general education in  
25 meeting the needs of children with disabilities.

1       “(c) IMPROVEMENT STRATEGIES.—Each State im-  
2     provement plan shall—

3               “(1) describe a partnership agreement that—

4                       “(A) specifies—

5                               “(i) the nature and extent of the part-  
6                               nership among the State educational agen-  
7                               cy, local educational agencies, and other  
8                               State agencies involved in, or concerned  
9                               with, the education of children with disabili-  
10                              ties, and the respective roles of each mem-  
11                              ber of the partnership; and

12                              “(ii) how such agencies will work in  
13                              partnership with other persons and organi-  
14                              zations involved in, and concerned with,  
15                              the education of children with disabilities,  
16                              including the respective roles of each of  
17                              these persons and organizations; and

18                              “(B) is in effect for the period of the  
19     grant;

20               “(2) describe how grant funds will be used in  
21     undertaking the systemic-change activities, and the  
22     amount and nature of funds from any other sources,  
23     including part B funds retained for use at the State  
24     level under sections 611(f) and 619(d), that will be  
25     committed to the systemic-change activities;

1           “(3) describe the strategies the State will use to  
2 address the needs identified under subsection (b), in-  
3 cluding—

4           “(A) how the State will change State poli-  
5 cies and procedures to address systemic barriers  
6 to improving results for children with disabil-  
7 ities;

8           “(B) how the State will hold local edu-  
9 cational agencies and schools accountable for  
10 educational progress of children with disabil-  
11 ities;

12           “(C) how the State will provide technical  
13 assistance to local educational agencies and  
14 schools to improve results for children with dis-  
15 abilities;

16           “(D) how the State will address the identi-  
17 fied needs for in-service and pre-service prepa-  
18 ration to ensure that all personnel who work  
19 with children with disabilities (including both  
20 professional and paraprofessional personnel who  
21 provide special education, general education, re-  
22 lated services, or early intervention services)  
23 have the skills and knowledge necessary to meet  
24 the needs of children with disabilities, including  
25 a description of how—

1           “(i) the State will prepare general and  
2           special education personnel with the con-  
3           tent knowledge and collaborative skills  
4           needed to meet the needs of children with  
5           disabilities, including how the State will  
6           work with other States on common certifi-  
7           cation criteria;

8           “(ii) the State will prepare profes-  
9           sionals and paraprofessionals in the area of  
10          early intervention with the content knowl-  
11          edge and collaborative skills needed to  
12          meet the needs of infants and toddlers  
13          with disabilities;

14          “(iii) the State will work with institu-  
15          tions of higher education and other entities  
16          that (on both a pre-service and an in-serv-  
17          ice basis) prepare personnel who work with  
18          children with disabilities to ensure that  
19          those institutions and entities develop the  
20          capacity to support quality professional de-  
21          velopment programs that meet State and  
22          local needs;

23          “(iv) the State will work to develop  
24          collaborative agreements with other States  
25          for the joint support and development of

1 programs to prepare personnel for which  
2 there is not sufficient demand within a sin-  
3 gle State to justify support or development  
4 of such a program of preparation;

5 “(v) the State will work in collabora-  
6 tion with other States, particularly neigh-  
7 boring States, to address the lack of uni-  
8 formity and reciprocity in the credentialing  
9 of teachers and other personnel;

10 “(vi) the State will enhance the ability  
11 of teachers and others to use strategies,  
12 such as behavioral interventions, to ad-  
13 dress the conduct of children with disabil-  
14 ities that impedes the learning of children  
15 with disabilities and others;

16 “(vii) the State will acquire and dis-  
17 seminate, to teachers, administrators,  
18 school board members, and related services  
19 personnel, significant knowledge derived  
20 from educational research and other  
21 sources, and how the State will, when ap-  
22 propriate, adopt promising practices, mate-  
23 rials, and technology;

24 “(viii) the State will recruit, prepare,  
25 and retain qualified personnel, including

1 personnel with disabilities and personnel  
2 from groups that are underrepresented in  
3 the fields of regular education, special edu-  
4 cation, and related services;

5 “(ix) the plan is integrated, to the  
6 maximum extent possible, with other pro-  
7 fessional development plans and activities,  
8 including plans and activities developed  
9 and carried out under other Federal and  
10 State laws that address personnel recruit-  
11 ment and training; and

12 “(x) the State will provide for the  
13 joint training of parents and special edu-  
14 cation, related services, and general edu-  
15 cation personnel;

16 “(E) strategies that will address systemic  
17 problems identified in Federal compliance re-  
18 views, including shortages of qualified person-  
19 nel;

20 “(F) how the State will disseminate results  
21 of the local capacity-building and improvement  
22 projects funded under section 611(f)(4);

23 “(G) how the State will address improving  
24 results for children with disabilities in the geo-  
25 graphic areas of greatest need; and

1           “(H) how the State will assess, on a regu-  
2           lar basis, the extent to which the strategies im-  
3           plemented under this subpart have been effec-  
4           tive; and

5           “(4) describe how the improvement strategies  
6           described in paragraph (3) will be coordinated with  
7           public and private sector resources.

8           “(d) COMPETITIVE AWARDS.—

9           “(1) IN GENERAL.—The Secretary shall make  
10          grants under this subpart on a competitive basis.

11          “(2) PRIORITY.—The Secretary may give prior-  
12          ity to applications on the basis of need, as indicated  
13          by such information as the findings of Federal com-  
14          pliance reviews.

15          “(e) PEER REVIEW.—

16          “(1) IN GENERAL.—The Secretary shall use a  
17          panel of experts who are competent, by virtue of  
18          their training, expertise, or experience, to evaluate  
19          applications under this subpart.

20          “(2) COMPOSITION OF PANEL.—A majority of a  
21          panel described in paragraph (1) shall be composed  
22          of individuals who are not employees of the Federal  
23          Government.

24          “(3) PAYMENT OF FEES AND EXPENSES OF  
25          CERTAIN MEMBERS.—The Secretary may use avail-

1       able funds appropriated to carry out this subpart to  
2       pay the expenses and fees of panel members who are  
3       not employees of the Federal Government.

4       “(f) REPORTING PROCEDURES.—Each State edu-  
5       cational agency that receives a grant under this subpart  
6       shall submit performance reports to the Secretary pursu-  
7       ant to a schedule to be determined by the Secretary, but  
8       not more frequently than annually. The reports shall de-  
9       scribe the progress of the State in meeting the perform-  
10      ance goals established under section 612(a)(16), analyze  
11      the effectiveness of the State’s strategies in meeting those  
12      goals, and identify any changes in the strategies needed  
13      to improve its performance.

14      **“SEC. 654. USE OF FUNDS.**

15      “(a) IN GENERAL.—

16              “(1) ACTIVITIES.—A State educational agency  
17              that receives a grant under this subpart may use the  
18              grant to carry out any activities that are described  
19              in the State’s application and that are consistent  
20              with the purpose of this subpart.

21              “(2) CONTRACTS AND SUBGRANTS.—Each such  
22              State educational agency—

23                      “(A) shall, consistent with its partnership  
24                      agreement under section 652(b), award con-  
25                      tracts or subgrants to local educational agen-

1           cies, institutions of higher education, and par-  
2           ent training and information centers, as appro-  
3           priate, to carry out its State improvement plan  
4           under this subpart; and

5                   “(B) may award contracts and subgrants  
6           to other public and private entities, including  
7           the lead agency under part C, to carry out such  
8           plan.

9           “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-  
10          MENT.—A State educational agency that receives a grant  
11          under this subpart—

12                   “(1) shall use not less than 75 percent of the  
13          funds it receives under the grant for any fiscal  
14          year—

15                           “(A) to ensure that there are sufficient  
16          regular education, special education, and relat-  
17          ed services personnel who have the skills and  
18          knowledge necessary to meet the needs of chil-  
19          dren with disabilities and developmental goals  
20          of young children; or

21                           “(B) to work with other States on common  
22          certification criteria; or

23                   “(2) shall use not less than 50 percent of such  
24          funds for such purposes, if the State demonstrates

1 to the Secretary's satisfaction that it has the person-  
2 nel described in paragraph (1)(A).

3 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95–  
4 134, permitting the consolidation of grants to the outlying  
5 areas, shall not apply to funds received under this subpart.

6 **“SEC. 655. MINIMUM STATE GRANT AMOUNTS.**

7 “(a) IN GENERAL.—The Secretary shall make a  
8 grant to each State educational agency whose application  
9 the Secretary has selected for funding under this subpart  
10 in an amount for each fiscal year that is—

11 “(1) not less than \$500,000, nor more than  
12 \$2,000,000, in the case of the 50 States, the Dis-  
13 trict of Columbia, and the Commonwealth of Puerto  
14 Rico; and

15 “(2) not less than \$80,000, in the case of an  
16 outlying area.

17 “(b) INFLATION ADJUSTMENT.—Beginning with fis-  
18 cal year 1999, the Secretary may increase the maximum  
19 amount described in subsection (a)(1) to account for infla-  
20 tion.

21 “(c) FACTORS.—The Secretary shall set the amount  
22 of each grant under subsection (a) after considering—

23 “(1) the amount of funds available for making  
24 the grants;

1           “(2) the relative population of the State or out-  
2           lying area; and

3           “(3) the types of activities proposed by the  
4           State or outlying area.

5 **“SEC. 656. AUTHORIZATION OF APPROPRIATIONS.**

6           “There are authorized to be appropriated to carry out  
7 this subpart such sums as may be necessary for each of  
8 the fiscal years 1998 through 2002.

9 **“Subpart 2—Coordinated Research, Personnel Prepa-  
10           ration, Technical Assistance, Support, and Dis-  
11           semination of Information**

12 **“SEC. 661. ADMINISTRATIVE PROVISIONS.**

13           “(a) COMPREHENSIVE PLAN.—

14           “(1) IN GENERAL.—The Secretary shall develop  
15 and implement a comprehensive plan for activities  
16 carried out under this subpart in order to enhance  
17 the provision of educational, related, transitional,  
18 and early intervention services to children with dis-  
19 abilities under parts B and C. The plan shall include  
20 mechanisms to address educational, related services,  
21 transitional, and early intervention needs identified  
22 by State educational agencies in applications submit-  
23 ted for State program improvement grants under  
24 subpart 1.

1           “(2) PARTICIPANTS IN PLAN DEVELOPMENT.—  
2           In developing the plan described in paragraph (1),  
3           the Secretary shall consult with—

4                   “(A) individuals with disabilities;

5                   “(B) parents of children with disabilities;

6                   “(C) appropriate professionals; and

7                   “(D) representatives of State and local  
8           educational agencies, private schools, institu-  
9           tions of higher education, other Federal agen-  
10          cies, the National Council on Disability, and na-  
11          tional organizations with an interest in, and ex-  
12          pertise in, providing services to children with  
13          disabilities and their families.

14           “(3) PUBLIC COMMENT.—The Secretary shall  
15          take public comment on the plan.

16           “(4) DISTRIBUTION OF FUNDS.—In implement-  
17          ing the plan, the Secretary shall, to the extent ap-  
18          propriate, ensure that funds are awarded to recipi-  
19          ents under this subpart to carry out activities that  
20          benefit, directly or indirectly, children with disabil-  
21          ities of all ages.

22           “(5) REPORTS TO CONGRESS.—The Secretary  
23          shall periodically report to the Congress on the Sec-  
24          retary’s activities under this subsection, including an  
25          initial report not later than the date that is 18

1 months after the date of the enactment of the Indi-  
2 viduals with Disabilities Act Amendments of 1997.

3 “(b) ELIGIBLE APPLICANTS.—

4 “(1) IN GENERAL.—Except as otherwise pro-  
5 vided in this subpart, the following entities are eligi-  
6 ble to apply for a grant, contract, or cooperative  
7 agreement under this subpart:

8 “(A) A State educational agency.

9 “(B) A local educational agency.

10 “(C) An institution of higher education.

11 “(D) Any other public agency.

12 “(E) A private nonprofit organization.

13 “(F) An outlying area.

14 “(G) An Indian tribe or a tribal organiza-  
15 tion (as defined under section 4 of the Indian  
16 Self-Determination and Education Assistance  
17 Act).

18 “(H) A for-profit organization, if the Sec-  
19 retary finds it appropriate in light of the pur-  
20 poses of a particular competition for a grant,  
21 contract, or cooperative agreement under this  
22 subpart.

23 “(2) SPECIAL RULE.—The Secretary may limit  
24 the entities eligible for an award of a grant, con-  
25 tract, or cooperative agreement to one or more cat-

1       egories of eligible entities described in paragraph  
2       (1).

3       “(c) USE OF FUNDS BY SECRETARY.—Notwithstand-  
4       ing any other provision of law, and in addition to any au-  
5       thority granted the Secretary under chapter 1 or chapter  
6       2, the Secretary may use up to 20 percent of the funds  
7       available under either chapter 1 or chapter 2 for any fiscal  
8       year to carry out any activity, or combination of activities,  
9       subject to such conditions as the Secretary determines are  
10      appropriate effectively to carry out the purposes of such  
11      chapters, that—

12                   “(A) is consistent with the purposes of  
13                   chapter 1, chapter 2, or both; and

14                   “(B) involves—

15                           “(i) research;

16                           “(ii) personnel preparation;

17                           “(iii) parent training and information;

18                           “(iv) technical assistance and dissemi-  
19                   nation;

20                           “(v) technology development, dem-  
21                   onstration, and utilization; or

22                           “(vi) media services.

23      “(d) SPECIAL POPULATIONS.—

24                   “(1) APPLICATION REQUIREMENT.—In making  
25      an award of a grant, contract, or cooperative agree-

1       ment under this subpart, the Secretary shall, as ap-  
2       propriate, require an applicant to demonstrate how  
3       the applicant will address the needs of children with  
4       disabilities from minority backgrounds.

5               “(2) OUTREACH AND TECHNICAL ASSIST-  
6       ANCE.—

7               “(A) REQUIREMENT.—Notwithstanding  
8       any other provision of this Act, the Secretary  
9       shall ensure that at least one percent of the  
10      total amount of funds appropriated to carry out  
11      this subpart is used for either or both of the  
12      following activities:

13              “(i) To provide outreach and technical  
14      assistance to Historically Black Colleges  
15      and Universities, and to institutions of  
16      higher education with minority enrollments  
17      of at least 25 percent, to promote the par-  
18      ticipation of such colleges, universities, and  
19      institutions in activities under this subpart.

20              “(ii) To enable Historically Black Col-  
21      leges and Universities, and the institutions  
22      described in clause (i), to assist other col-  
23      leges, universities, institutions, and agen-  
24      cies in improving educational and transi-  
25      tional results for children with disabilities.

1           “(B) RESERVATION OF FUNDS.—The Sec-  
2           retary may reserve funds appropriated under  
3           this subpart to satisfy the requirement of sub-  
4           paragraph (A).

5           “(e) PRIORITIES.—

6           “(1) IN GENERAL.—Except as otherwise explic-  
7           itly authorized in this subpart, the Secretary shall  
8           ensure that a grant, contract, or cooperative agree-  
9           ment under chapter 1 or 2 is awarded only—

10           “(A) for activities that are designed to  
11           benefit children with disabilities, their families,  
12           or the personnel employed to work with such  
13           children or their families; or

14           “(B) to benefit other individuals with dis-  
15           abilities that such chapter is intended to bene-  
16           fit.

17           “(2) PRIORITY FOR PARTICULAR ACTIVITIES.—  
18           Subject to paragraph (1), the Secretary, in making  
19           an award of a grant, contract, or cooperative agree-  
20           ment under this subpart, may, without regard to the  
21           rule making procedures under section 553 of title 5,  
22           United States Code, limit competitions to, or other-  
23           wise give priority to—

24           “(A) projects that address one or more—

25           “(i) age ranges;

1 “(ii) disabilities;

2 “(iii) school grades;

3 “(iv) types of educational placements  
4 or early intervention environments;

5 “(v) types of services;

6 “(vi) content areas, such as reading;

7 or

8 “(vii) effective strategies for helping  
9 children with disabilities learn appropriate  
10 behavior in the school and other commu-  
11 nity-based educational settings;

12 “(B) projects that address the needs of  
13 children based on the severity of their disability;

14 “(C) projects that address the needs of—

15 “(i) low-achieving students;

16 “(ii) underserved populations;

17 “(iii) children from low-income fami-  
18 lies;

19 “(iv) children with limited English  
20 proficiency;

21 “(v) unserved and underserved areas;

22 “(vi) particular types of geographic  
23 areas; or

24 “(vii) children whose behavior inter-  
25 feres with their learning and socialization;

1           “(D) projects to reduce inappropriate iden-  
2           tification of children as children with disabil-  
3           ities, particularly among minority children;

4           “(E) projects that are carried out in par-  
5           ticular areas of the country, to ensure broad ge-  
6           ographic coverage; and

7           “(F) any activity that is expressly author-  
8           ized in chapter 1 or 2.

9           “(f) APPLICANT AND RECIPIENT RESPONSIBIL-  
10          ITIES.—

11           “(1) DEVELOPMENT AND ASSESSMENT OF  
12          PROJECTS.—The Secretary shall require that an ap-  
13          plicant for, and a recipient of, a grant, contract, or  
14          cooperative agreement for a project under this sub-  
15          part—

16           “(A) involve individuals with disabilities or  
17          parents of individuals with disabilities in plan-  
18          ning, implementing, and evaluating the project;  
19          and

20           “(B) where appropriate, determine whether  
21          the project has any potential for replication and  
22          adoption by other entities.

23           “(2) ADDITIONAL RESPONSIBILITIES.—The  
24          Secretary may require a recipient of a grant, con-

1 tract, or cooperative agreement for a project under  
2 this subpart—

3 “(A) to share in the cost of the project;

4 “(B) to prepare the research and evalua-  
5 tion findings and products from the project in  
6 formats that are useful for specific audiences,  
7 including parents, administrators, teachers,  
8 early intervention personnel, related services  
9 personnel, and individuals with disabilities;

10 “(C) to disseminate such findings and  
11 products; and

12 “(D) to collaborate with other such recipi-  
13 ents in carrying out subparagraphs (B) and  
14 (C).

15 “(g) APPLICATION MANAGEMENT.—

16 “(1) STANDING PANEL.—

17 “(A) IN GENERAL.—The Secretary shall  
18 establish and use a standing panel of experts  
19 who are competent, by virtue of their training,  
20 expertise, or experience, to evaluate applications  
21 under this subpart that, individually, request  
22 more than \$75,000 per year in Federal finan-  
23 cial assistance.

24 “(B) MEMBERSHIP.—The standing panel  
25 shall include, at a minimum—

1           “(i) individuals who are representa-  
2 tives of institutions of higher education  
3 that plan, develop, and carry out programs  
4 of personnel preparation;

5           “(ii) individuals who design and carry  
6 out programs of research targeted to the  
7 improvement of special education programs  
8 and services;

9           “(iii) individuals who have recognized  
10 experience and knowledge necessary to in-  
11 tegrate and apply research findings to im-  
12 prove educational and transitional results  
13 for children with disabilities;

14           “(iv) individuals who administer pro-  
15 grams at the State or local level in which  
16 children with disabilities participate;

17           “(v) individuals who prepare parents  
18 of children with disabilities to participate  
19 in making decisions about the education of  
20 their children;

21           “(vi) individuals who establish policies  
22 that affect the delivery of services to chil-  
23 dren with disabilities;

24           “(vii) individuals who are parents of  
25 children with disabilities who are benefit-

1 ing, or have benefited, from coordinated  
2 research, personnel preparation, and tech-  
3 nical assistance; and

4 “(viii) individuals with disabilities.

5 “(C) TRAINING.—The Secretary shall pro-  
6 vide training to the individuals who are selected  
7 as members of the standing panel under this  
8 paragraph.

9 “(D) TERM.—No individual shall serve on  
10 the standing panel for more than 3 consecutive  
11 years, unless the Secretary determines that the  
12 individual’s continued participation is necessary  
13 for the sound administration of this subpart.

14 “(2) PEER-REVIEW PANELS FOR PARTICULAR  
15 COMPETITIONS.—

16 “(A) COMPOSITION.—The Secretary shall  
17 ensure that each sub-panel selected from the  
18 standing panel that reviews applications under  
19 this subpart includes—

20 “(i) individuals with knowledge and  
21 expertise on the issues addressed by the  
22 activities authorized by the subpart; and

23 “(ii) to the extent practicable, parents  
24 of children with disabilities, individuals

1 with disabilities, and persons from diverse  
2 backgrounds.

3 “(B) FEDERAL EMPLOYMENT LIMITA-  
4 TION.—A majority of the individuals on each  
5 sub-panel that reviews an application under this  
6 subpart shall be individuals who are not em-  
7 ployees of the Federal Government.

8 “(3) USE OF DISCRETIONARY FUNDS FOR AD-  
9 MINISTRATIVE PURPOSES.—

10 “(A) EXPENSES AND FEES OF NON-FED-  
11 ERAL PANEL MEMBERS.—The Secretary may  
12 use funds available under this subpart to pay  
13 the expenses and fees of the panel members  
14 who are not officers or employees of the Fed-  
15 eral Government.

16 “(B) ADMINISTRATIVE SUPPORT.—The  
17 Secretary may use not more than 1 percent of  
18 the funds appropriated to carry out this sub-  
19 part to pay non-Federal entities for administra-  
20 tive support related to management of applica-  
21 tions submitted under this subpart.

22 “(C) MONITORING.—The Secretary may  
23 use funds available under this subpart to pay  
24 the expenses of Federal employees to conduct  
25 on-site monitoring of projects receiving

1           \$500,000 or more for any fiscal year under this  
2           subpart.

3           “(h) PROGRAM EVALUATION.—The Secretary may  
4 use funds appropriated to carry out this subpart to evalu-  
5 ate activities carried out under the subpart.

6           “(i) MINIMUM FUNDING REQUIRED.—

7           “(1) IN GENERAL.—Subject to paragraph (2),  
8 the Secretary shall ensure that, for each fiscal year,  
9 at least the following amounts are provided under  
10 this subpart to address the following needs:

11                   “(A) \$12,832,000 to address the edu-  
12 cational, related services, transitional, and early  
13 intervention needs of children with deaf-blind-  
14 ness.

15                   “(B) \$4,000,000 to address the post-  
16 secondary, vocational, technical, continuing, and  
17 adult education needs of individuals with deaf-  
18 ness.

19                   “(C) \$4,000,000 to address the edu-  
20 cational, related services, and transitional needs  
21 of children with an emotional disturbance and  
22 those who are at risk of developing an emo-  
23 tional disturbance.

24           “(2) RATABLE REDUCTION.—If the total  
25 amount appropriated to carry out sections 672, 673,

1 and 685 for any fiscal year is less than  
2 \$130,000,000, the amounts listed in paragraph (1)  
3 shall be ratably reduced.

4 “(j) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-  
5 fective for fiscal years for which the Secretary may make  
6 grants under section 619(b), no State or local educational  
7 agency or educational service agency or other public insti-  
8 tution or agency may receive a grant under this subpart  
9 which relates exclusively to programs, projects, and activi-  
10 ties pertaining to children aged three to five, inclusive, un-  
11 less the State is eligible to receive a grant under section  
12 619(b).

13 **“Chapter 1—Improving Early Intervention, Edu-  
14 cational, and Transitional Services and Results  
15 for Children with Disabilities through Coordi-  
16 nated Research and Personnel Preparation**

17 **“SEC. 671. FINDINGS AND PURPOSE.**

18 “(a) FINDINGS.—The Congress finds the following:

19 “(1) The Federal Government has an ongoing  
20 obligation to support programs, projects, and activi-  
21 ties that contribute to positive results for children  
22 with disabilities, enabling them—

23 “(A) to meet their early intervention, edu-  
24 cational, and transitional goals and, to the max-

1           imum extent possible, educational standards  
2           that have been established for all children; and

3           “(B) to acquire the skills that will em-  
4           power them to lead productive and independent  
5           adult lives.

6           “(2)(A) As a result of more than 20 years of  
7           Federal support for research, demonstration  
8           projects, and personnel preparation, there is an im-  
9           portant knowledge base for improving results for  
10          children with disabilities.

11          “(B) Such knowledge should be used by States  
12          and local educational agencies to design and imple-  
13          ment state-of-the-art educational systems that con-  
14          sider the needs of, and include, children with disabil-  
15          ities, especially in environments in which they can  
16          learn along with their peers and achieve results  
17          measured by the same standards as the results of  
18          their peers.

19          “(3)(A) Continued Federal support is essential  
20          for the development and maintenance of a coordi-  
21          nated and high-quality program of research, dem-  
22          onstration projects, dissemination of information,  
23          and personnel preparation.

24          “(B) Such support—

1           “(i) enables State educational agencies and  
2 local educational agencies to improve their edu-  
3 cational systems and results for children with  
4 disabilities;

5           “(ii) enables State and local agencies to  
6 improve early intervention services and results  
7 for infants and toddlers with disabilities and  
8 their families; and

9           “(iii) enhances the opportunities for gen-  
10 eral and special education personnel, related  
11 services personnel, parents, and paraprofes-  
12 sionals to participate in pre-service and in-serv-  
13 ice training, to collaborate, and to improve re-  
14 sults for children with disabilities and their  
15 families.

16           “(4) The Federal Government plays a critical  
17 role in facilitating the availability of an adequate  
18 number of qualified personnel—

19           “(A) to serve effectively the over 5,000,000  
20 children with disabilities;

21           “(B) to assume leadership positions in ad-  
22 ministrative and direct-service capacities related  
23 to teacher training and research concerning the  
24 provision of early intervention services, special  
25 education, and related services; and

1           “(C) to work with children with low-incidence disabilities and their families.

2  
3           “(5) The Federal Government performs the role described in paragraph (4)—

4  
5           “(A) by supporting models of personnel development that reflect successful practice, including strategies for recruiting, preparing, and retaining personnel;

6  
7  
8           “(B) by promoting the coordination and integration of—

9  
10           “(i) personnel-development activities for teachers of children with disabilities; and

11           “(ii) other personnel-development activities supported under Federal law, including this chapter;

12           “(C) by supporting the development and dissemination of information about teaching standards; and

13           “(D) by promoting the coordination and integration of personnel-development activities through linkage with systemic-change activities within States and nationally.

14           “(b) PURPOSE.—The purpose of this chapter is to provide Federal funding for coordinated research, dem-

1 onstration projects, outreach, and personnel-preparation  
2 activities that—

3 “(1) are described in sections 672 through 674;

4 “(2) are linked with, and promote, systemic  
5 change; and

6 “(3) improve early intervention, educational,  
7 and transitional results for children with disabilities.

8 **“SEC. 672. RESEARCH AND INNOVATION TO IMPROVE SERV-**  
9 **ICES AND RESULTS FOR CHILDREN WITH DIS-**  
10 **ABILITIES.**

11 “(a) IN GENERAL.—The Secretary shall make com-  
12 petitive grants to, or enter into contracts or cooperative  
13 agreements with, eligible entities to produce, and advance  
14 the use of, knowledge—

15 “(1) to improve—

16 “(A) services provided under this Act, in-  
17 cluding the practices of professionals and others  
18 involved in providing such services to children  
19 with disabilities; and

20 “(B) educational results for children with  
21 disabilities;

22 “(2) to address the special needs of preschool-  
23 aged children and infants and toddlers with disabil-  
24 ities, including infants and toddlers who would be at  
25 risk of having substantial developmental delays if

1 early intervention services were not provided to  
2 them;

3 “(3) to address the specific problems of over-  
4 identification and under-identification of children  
5 with disabilities;

6 “(4) to develop and implement effective strate-  
7 gies for addressing inappropriate behavior of stu-  
8 dents with disabilities in schools, including strategies  
9 to prevent children with emotional and behavioral  
10 problems from developing emotional disturbances  
11 that require the provision of special education and  
12 related services;

13 “(5) to improve secondary and postsecondary  
14 education and transitional services for children with  
15 disabilities; and

16 “(6) to address the range of special education,  
17 related services, and early intervention needs of chil-  
18 dren with disabilities who need significant levels of  
19 support to maximize their participation and learning  
20 in school and in the community.

21 “(b) NEW KNOWLEDGE PRODUCTION; AUTHORIZED  
22 ACTIVITIES.—

23 “(1) IN GENERAL.—In carrying out this sec-  
24 tion, the Secretary shall support activities, consistent

1 with the objectives described in subsection (a), that  
2 lead to the production of new knowledge.

3 “(2) AUTHORIZED ACTIVITIES.—Activities that  
4 may be carried out under this subsection include ac-  
5 tivities such as the following:

6 “(A) Expanding understanding of the rela-  
7 tionships between learning characteristics of  
8 children with disabilities and the diverse ethnic,  
9 cultural, linguistic, social, and economic back-  
10 grounds of children with disabilities and their  
11 families.

12 “(B) Developing or identifying innovative,  
13 effective, and efficient curricula designs, in-  
14 structional approaches, and strategies, and de-  
15 veloping or identifying positive academic and  
16 social learning opportunities, that—

17 “(i) enable children with disabilities to  
18 make effective transitions described in sec-  
19 tion 674(b)(3)(C) or transitions between  
20 educational settings; and

21 “(ii) improve educational and transi-  
22 tional results for children with disabilities  
23 at all levels of the educational system in  
24 which the activities are carried out and, in  
25 particular, that improve the progress of the

1 children, as measured by assessments with-  
2 in the general education curriculum in-  
3 volved.

4 “(C) Advancing the design of assessment  
5 tools and procedures that will accurately and ef-  
6 ficiently determine the special instructional,  
7 learning, and behavioral needs of children with  
8 disabilities, especially within the context of gen-  
9 eral education.

10 “(D) Studying and promoting improved  
11 alignment and compatibility of general and spe-  
12 cial education reforms concerned with curricular  
13 and instructional reform, evaluation and ac-  
14 countability of such reforms, and administrative  
15 procedures.

16 “(E) Advancing the design, development,  
17 and integration of technology, assistive tech-  
18 nology devices, media, and materials, to im-  
19 prove early intervention, educational, and tran-  
20 sitional services and results for children with  
21 disabilities.

22 “(F) Improving designs, processes, and re-  
23 sults of personnel preparation for personnel  
24 who provide services to children with disabilities

1 through the acquisition of information on, and  
2 implementation of, research-based practices.

3 “(G) Advancing knowledge about the co-  
4 ordination of education with health and social  
5 services.

6 “(H) Producing information on the long-  
7 term impact of early intervention and education  
8 on results for individuals with disabilities  
9 through large-scale longitudinal studies.

10 “(c) INTEGRATION OF RESEARCH AND PRACTICE;  
11 AUTHORIZED ACTIVITIES.—

12 “(1) IN GENERAL.—In carrying out this sec-  
13 tion, the Secretary shall support activities, consistent  
14 with the objectives described in subsection (a), that  
15 integrate research and practice, including activities  
16 that support State systemic-change and local capac-  
17 ity-building and improvement efforts.

18 “(2) AUTHORIZED ACTIVITIES.—Activities that  
19 may be carried out under this subsection include ac-  
20 tivities such as the following:

21 “(A) Model demonstration projects to  
22 apply and test research findings in typical serv-  
23 ice settings to determine the usability, effective-  
24 ness, and general applicability of such research  
25 findings in such areas as improving instruc-

1           tional methods, curricula, and tools, such as  
2           textbooks and media.

3           “(B) Demonstrating and applying re-  
4           search-based findings to facilitate systemic  
5           changes, related to the provision of services to  
6           children with disabilities, in policy, procedure,  
7           practice, and the training and use of personnel.

8           “(C) Promoting and demonstrating the co-  
9           ordination of early intervention and educational  
10          services for children with disabilities with serv-  
11          ices provided by health, rehabilitation, and so-  
12          cial service agencies.

13          “(D) Identifying and disseminating solu-  
14          tions that overcome systemic barriers to the ef-  
15          fective and efficient delivery of early interven-  
16          tion, educational, and transitional services to  
17          children with disabilities.

18          “(d) IMPROVING THE USE OF PROFESSIONAL  
19          KNOWLEDGE; AUTHORIZED ACTIVITIES.—

20                 “(1) IN GENERAL.—In carrying out this sec-  
21          tion, the Secretary shall support activities, consistent  
22          with the objectives described in subsection (a), that  
23          improve the use of professional knowledge, including  
24          activities that support State systemic-change and  
25          local capacity-building and improvement efforts.

1           “(2) AUTHORIZED ACTIVITIES.—Activities that  
2           may be carried out under this subsection include ac-  
3           tivities such as the following:

4                   “(A) Synthesizing useful research and  
5                   other information relating to the provision of  
6                   services to children with disabilities, including  
7                   effective practices.

8                   “(B) Analyzing professional knowledge  
9                   bases to advance an understanding of the rela-  
10                  tionships, and the effectiveness of practices, re-  
11                  lating to the provision of services to children  
12                  with disabilities.

13                  “(C) Ensuring that research and related  
14                  products are in appropriate formats for dis-  
15                  tribution to teachers, parents, and individuals  
16                  with disabilities.

17                  “(D) Enabling professionals, parents of  
18                  children with disabilities, and other persons, to  
19                  learn about, and implement, the findings of re-  
20                  search, and successful practices developed in  
21                  model demonstration projects, relating to the  
22                  provision of services to children with disabil-  
23                  ities.

24                  “(E) Conducting outreach, and disseminat-  
25                  ing information relating to successful ap-

1           proaches to overcoming systemic barriers to the  
2           effective and efficient delivery of early interven-  
3           tion, educational, and transitional services, to  
4           personnel who provide services to children with  
5           disabilities.

6           “(e) BALANCE AMONG ACTIVITIES AND AGE  
7 RANGES.—In carrying out this section, the Secretary shall  
8 ensure that there is an appropriate balance—

9                   “(1) among knowledge production, integration  
10           of research and practice, and use of professional  
11           knowledge; and

12                   “(2) across all age ranges of children with dis-  
13           abilities.

14           “(f) APPLICATIONS.—An eligible entity that wishes  
15 to receive a grant, or enter into a contract or cooperative  
16 agreement, under this section shall submit an application  
17 to the Secretary at such time, in such manner, and con-  
18 taining such information as the Secretary may require.

19           “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated to carry out this section  
21 such sums as may be necessary for each of the fiscal years  
22 1998 through 2002.

1 **“SEC. 673. PERSONNEL PREPARATION TO IMPROVE SERV-**  
2 **ICES AND RESULTS FOR CHILDREN WITH DIS-**  
3 **ABILITIES.**

4 “(a) IN GENERAL.—The Secretary shall, on a com-  
5 petitive basis, make grants to, or enter into contracts or  
6 cooperative agreements with, eligible entities—

7 “(1) to help address State-identified needs for  
8 qualified personnel in special education, related serv-  
9 ices, early intervention, and regular education, to  
10 work with children with disabilities; and

11 “(2) to ensure that those personnel have the  
12 skills and knowledge, derived from practices that  
13 have been determined, through research and experi-  
14 ence, to be successful, that are needed to serve those  
15 children.

16 “(b) LOW-INCIDENCE DISABILITIES; AUTHORIZED  
17 ACTIVITIES.—

18 “(1) IN GENERAL.—In carrying out this sec-  
19 tion, the Secretary shall support activities, consistent  
20 with the objectives described in subsection (a), that  
21 benefit children with low-incidence disabilities.

22 “(2) AUTHORIZED ACTIVITIES.—Activities that  
23 may be carried out under this subsection include ac-  
24 tivities such as the following:

25 “(A) Preparing persons who—

1           “(i) have prior training in educational  
2           and other related service fields; and

3           “(ii) are studying to obtain degrees,  
4           certificates, or licensure that will enable  
5           them to assist children with disabilities to  
6           achieve the objectives set out in their indi-  
7           vidualized education programs described in  
8           section 614(d), or to assist infants and  
9           toddlers with disabilities to achieve the  
10          outcomes described in their individualized  
11          family service plans described in section  
12          636.

13          “(B) Providing personnel from various dis-  
14          ciplines with interdisciplinary training that will  
15          contribute to improvement in early intervention,  
16          educational, and transitional results for children  
17          with disabilities.

18          “(C) Preparing personnel in the innovative  
19          uses and application of technology to enhance  
20          learning by children with disabilities through  
21          early intervention, educational, and transitional  
22          services.

23          “(D) Preparing personnel who provide  
24          services to visually impaired or blind children to

1 teach and use Braille in the provision of serv-  
2 ices to such children.

3 “(E) Preparing personnel to be qualified  
4 educational interpreters, to assist children with  
5 disabilities, particularly deaf and hard-of-hear-  
6 ing children in school and school-related activi-  
7 ties and deaf and hard-of-hearing infants and  
8 toddlers and preschool children in early inter-  
9 vention and preschool programs.

10 “(F) Preparing personnel who provide  
11 services to children with significant cognitive  
12 disabilities and children with multiple disabil-  
13 ities.

14 “(3) DEFINITION.—As used in this section, the  
15 term ‘low-incidence disability’ means—

16 “(A) a visual or hearing impairment, or si-  
17 multaneous visual and hearing impairments;

18 “(B) a significant cognitive impairment; or

19 “(C) any impairment for which a small  
20 number of personnel with highly specialized  
21 skills and knowledge are needed in order for  
22 children with that impairment to receive early  
23 intervention services or a free appropriate pub-  
24 lic education.

1           “(4) SELECTION OF RECIPIENTS.—In selecting  
2 recipients under this subsection, the Secretary may  
3 give preference to applications that propose to pre-  
4 pare personnel in more than one low-incidence dis-  
5 ability, such as deafness and blindness.

6           “(5) PREPARATION IN USE OF BRAILLE.—The  
7 Secretary shall ensure that all recipients of assist-  
8 ance under this subsection who will use that assist-  
9 ance to prepare personnel to provide services to vis-  
10 ually impaired or blind children that can appro-  
11 priately be provided in Braille will prepare those in-  
12 dividuals to provide those services in Braille.

13           “(c) LEADERSHIP PREPARATION; AUTHORIZED AC-  
14 TIVITIES.—

15           “(1) IN GENERAL.—In carrying out this sec-  
16 tion, the Secretary shall support leadership prepara-  
17 tion activities that are consistent with the objectives  
18 described in subsection (a).

19           “(2) AUTHORIZED ACTIVITIES.—Activities that  
20 may be carried out under this subsection include ac-  
21 tivities such as the following:

22           “(A) Preparing personnel at the advanced  
23 graduate, doctoral, and postdoctoral levels of  
24 training to administer, enhance, or provide  
25 services for children with disabilities.

1           “(B) Providing interdisciplinary training  
2           for various types of leadership personnel, in-  
3           cluding teacher preparation faculty, administra-  
4           tors, researchers, supervisors, principals, and  
5           other persons whose work affects early interven-  
6           tion, educational, and transitional services for  
7           children with disabilities.

8           “(d) PROJECTS OF NATIONAL SIGNIFICANCE; AU-  
9           THORIZED ACTIVITIES.—

10           “(1) IN GENERAL.—In carrying out this sec-  
11           tion, the Secretary shall support activities, consistent  
12           with the objectives described in subsection (a), that  
13           are of national significance and have broad applica-  
14           bility.

15           “(2) AUTHORIZED ACTIVITIES.—Activities that  
16           may be carried out under this subsection include ac-  
17           tivities such as the following:

18           “(A) Developing and demonstrating effec-  
19           tive and efficient practices for preparing per-  
20           sonnel to provide services to children with dis-  
21           abilities, including practices that address any  
22           needs identified in the State’s improvement  
23           plan under part C;

24           “(B) Demonstrating the application of sig-  
25           nificant knowledge derived from research and

1 other sources in the development of programs  
2 to prepare personnel to provide services to chil-  
3 dren with disabilities.

4 “(C) Demonstrating models for the prepa-  
5 ration of, and interdisciplinary training of, early  
6 intervention, special education, and general edu-  
7 cation personnel, to enable the personnel—

8 “(i) to acquire the collaboration skills  
9 necessary to work within teams to assist  
10 children with disabilities; and

11 “(ii) to achieve results that meet chal-  
12 lenging standards, particularly within the  
13 general education curriculum.

14 “(D) Demonstrating models that reduce  
15 shortages of teachers, and personnel from other  
16 relevant disciplines, who serve children with dis-  
17 abilities, through reciprocity arrangements be-  
18 tween States that are related to licensure and  
19 certification.

20 “(E) Developing, evaluating, and dissemi-  
21 nating model teaching standards for persons  
22 working with children with disabilities.

23 “(F) Promoting the transferability, across  
24 State and local jurisdictions, of licensure and

1 certification of teachers and administrators  
2 working with such children.

3 “(G) Developing and disseminating models  
4 that prepare teachers with strategies, including  
5 behavioral interventions, for addressing the con-  
6 duct of children with disabilities that impedes  
7 their learning and that of others in the class-  
8 room.

9 “(H) Institutes that provide professional  
10 development that addresses the needs of chil-  
11 dren with disabilities to teachers or teams of  
12 teachers, and where appropriate, to school  
13 board members, administrators, principals,  
14 pupil-service personnel, and other staff from in-  
15 dividual schools.

16 “(I) Projects to improve the ability of gen-  
17 eral education teachers, principals, and other  
18 administrators to meet the needs of children  
19 with disabilities.

20 “(J) Developing, evaluating, and dissemi-  
21 nating innovative models for the recruitment,  
22 induction, retention, and assessment of new,  
23 qualified teachers, especially from groups that  
24 are underrepresented in the teaching profession,  
25 including individuals with disabilities.

1           “(K) Supporting institutions of higher edu-  
2           cation with minority enrollments of at least 25  
3           percent for the purpose of preparing personnel  
4           to work with children with disabilities.

5           “(e) HIGH-INCIDENCE DISABILITIES; AUTHORIZED  
6           ACTIVITIES.—

7           “(1) IN GENERAL.—In carrying out this sec-  
8           tion, the Secretary shall support activities, consistent  
9           with the objectives described in subsection (a), to  
10          benefit children with high-incidence disabilities, such  
11          as children with specific learning disabilities, speech  
12          or language impairment, or mental retardation.

13          “(2) AUTHORIZED ACTIVITIES.—Activities that  
14          may be carried out under this subsection include the  
15          following:

16                 “(A) Activities undertaken by institutions  
17                 of higher education, local educational agencies,  
18                 and other local entities—

19                         “(i) to improve and reform their exist-  
20                         ing programs to prepare teachers and re-  
21                         lated services personnel—

22                                 “(I) to meet the diverse needs of  
23                                 children with disabilities for early  
24                                 intervention, educational, and transi-  
25                                 tional services; and

1                   “(II) to work collaboratively in  
2                   regular classroom settings; and

3                   “(ii) to incorporate best practices and  
4                   research-based knowledge about preparing  
5                   personnel so they will have the knowledge  
6                   and skills to improve educational results  
7                   for children with disabilities.

8                   “(B) Activities incorporating innovative  
9                   strategies to recruit and prepare teachers and  
10                  other personnel to meet the needs of areas in  
11                  which there are acute and persistent shortages  
12                  of personnel.

13                  “(C) Developing career opportunities for  
14                  paraprofessionals to receive training as special  
15                  education teachers, related services personnel,  
16                  and early intervention personnel, including  
17                  interdisciplinary training to enable them to im-  
18                  prove early intervention, educational, and tran-  
19                  sitional results for children with disabilities.

20                  “(f) APPLICATIONS.—

21                  “(1) IN GENERAL.—Any eligible entity that  
22                  wishes to receive a grant, or enter into a contract or  
23                  cooperative agreement, under this section shall sub-  
24                  mit an application to the Secretary at such time, in

1 such manner, and containing such information as  
2 the Secretary may require.

3 “(2) IDENTIFIED STATE NEEDS.—

4 “(A) REQUIREMENT TO ADDRESS IDENTI-  
5 FIED NEEDS.—Any application under sub-  
6 section (b), (c), or (e) shall include information  
7 demonstrating to the satisfaction of the Sec-  
8 retary that the activities described in the appli-  
9 cation will address needs identified by the State  
10 or States the applicant proposes to serve.

11 “(B) COOPERATION WITH STATE EDU-  
12 CATIONAL AGENCIES.—Any applicant that is  
13 not a local educational agency or a State edu-  
14 cational agency shall include information dem-  
15 onstrating to the satisfaction of the Secretary  
16 that the applicant and one or more State edu-  
17 cational agencies have engaged in a cooperative  
18 effort to plan the project to which the applica-  
19 tion pertains, and will cooperate in carrying out  
20 and monitoring the project.

21 “(3) ACCEPTANCE BY STATES OF PERSONNEL  
22 PREPARATION REQUIREMENTS.—The Secretary may  
23 require applicants to provide letters from one or  
24 more States stating that the States—

1           “(A) intend to accept successful completion  
2           of the proposed personnel preparation program  
3           as meeting State personnel standards for serv-  
4           ing children with disabilities or serving infants  
5           and toddlers with disabilities; and

6           “(B) need personnel in the area or areas  
7           in which the applicant proposes to provide prep-  
8           aration, as identified in the States’ comprehen-  
9           sive systems of personnel development under  
10          parts B and C.

11       “(g) SELECTION OF RECIPIENTS.—

12           “(1) IMPACT OF PROJECT.—In selecting recipi-  
13          ents under this section, the Secretary may consider  
14          the impact of the project proposed in the application  
15          in meeting the need for personnel identified by the  
16          States.

17           “(2) REQUIREMENT ON APPLICANTS TO MEET  
18          STATE AND PROFESSIONAL STANDARDS.—The Sec-  
19          retary shall make grants under this section only to  
20          eligible applicants that meet State and profes-  
21          sionally-recognized standards for the preparation of  
22          special education and related services personnel, if  
23          the purpose of the project is to assist personnel in  
24          obtaining degrees.

1           “(3) PREFERENCES.—In selecting recipients  
2 under this section, the Secretary may—

3           “(A) give preference to institutions of  
4 higher education that are educating regular  
5 education personnel to meet the needs of chil-  
6 dren with disabilities in integrated settings and  
7 educating special education personnel to work  
8 in collaboration with regular educators in inte-  
9 grated settings; and

10           “(B) give preference to institutions of  
11 higher education that are successfully recruiting  
12 and preparing individuals with disabilities and  
13 individuals from groups that are underrep-  
14 resented in the profession for which they are  
15 preparing individuals.

16           “(h) SERVICE OBLIGATION.—

17           “(1) IN GENERAL.—Each application for funds  
18 under subsections (b) and (e), and to the extent ap-  
19 propriate subsection (d), shall include an assurance  
20 that the applicant will ensure that individuals who  
21 receive a scholarship under the proposed project will  
22 subsequently provide special education and related  
23 services to children with disabilities for a period of  
24 2 years for every year for which assistance was re-  
25 ceived or repay all or part of the cost of that assist-

1       ance, in accordance with regulations issued by the  
2       Secretary.

3           “(2) LEADERSHIP PREPARATION.—Each appli-  
4       cation for funds under subsection (c) shall include  
5       an assurance that the applicant will ensure that in-  
6       dividuals who receive a scholarship under the pro-  
7       posed project will subsequently perform work related  
8       to their preparation for a period of 2 years for every  
9       year for which assistance was received or repay all  
10      or part of such costs, in accordance with regulations  
11      issued by the Secretary.

12      “(i) SCHOLARSHIPS.—The Secretary may include  
13      funds for scholarships, with necessary stipends and allow-  
14      ances, in awards under subsections (b), (c), (d), and (e).

15      “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
16      are authorized to be appropriated to carry out this section  
17      such sums as may be necessary for each of the fiscal years  
18      1998 through 2002.

19      **“SEC. 674. STUDIES AND EVALUATIONS.**

20      “(a) STUDIES AND EVALUATIONS.—

21           “(1) IN GENERAL.—The Secretary shall, di-  
22      rectly or through grants, contracts, or cooperative  
23      agreements, assess the progress in the implementa-  
24      tion of this Act, including the effectiveness of State  
25      and local efforts to provide—

1           “(A) a free appropriate public education to  
2 children with disabilities; and

3           “(B) early intervention services to infants  
4 and toddlers with disabilities and infants and  
5 toddlers who would be at risk of having sub-  
6 stantial developmental delays if early interven-  
7 tion services were not provided to them.

8           “(2) AUTHORIZED ACTIVITIES.—In carrying  
9 out this subsection, the Secretary may support stud-  
10 ies, evaluations, and assessments, including studies  
11 that—

12           “(A) analyze measurable impact, outcomes,  
13 and results achieved by State educational agen-  
14 cies and local educational agencies through  
15 their activities to reform policies, procedures,  
16 and practices designed to improve educational  
17 and transitional services and results for chil-  
18 dren with disabilities;

19           “(B) analyze State and local needs for pro-  
20 fessional development, parent training, and  
21 other appropriate activities that can reduce the  
22 need for disciplinary actions involving children  
23 with disabilities;

1           “(C) assess educational and transitional  
2 services and results for children with disabilities  
3 from minority backgrounds, including—

4           “(i) data on—

5           “(I) the number of minority chil-  
6 dren who are referred for special edu-  
7 cation evaluation;

8           “(II) the number of minority  
9 children who are receiving special edu-  
10 cation and related services and their  
11 educational or other service place-  
12 ment; and

13           “(III) the number of minority  
14 children who graduated from second-  
15 ary and postsecondary education pro-  
16 grams; and

17           “(ii) the performance of children with  
18 disabilities from minority backgrounds on  
19 State assessments and other performance  
20 indicators established for all students;

21           “(D) measure educational and transitional  
22 services and results of children with disabilities  
23 under this Act, including longitudinal studies  
24 that—

1           “(i) examine educational and transi-  
2           tional services and results for children with  
3           disabilities who are 3 through 17 years of  
4           age and are receiving special education and  
5           related services under this Act, using a na-  
6           tional, representative sample of distinct  
7           age cohorts and disability categories; and

8           “(ii) examine educational results,  
9           postsecondary placement, and employment  
10          status of individuals with disabilities, 18  
11          through 21 years of age, who are receiving  
12          or have received special education and re-  
13          lated services under this Act; and

14          “(E) identify and report on the placement  
15          of children with disabilities by disability cat-  
16          egory.

17          “(b) NATIONAL ASSESSMENT.—

18                 “(1) IN GENERAL.—The Secretary shall carry  
19                 out a national assessment of activities carried out  
20                 with Federal funds under this Act in order—

21                         “(A) to determine the effectiveness of this  
22                         Act in achieving its purposes;

23                         “(B) to provide information to the Presi-  
24                         dent, the Congress, the States, local educational

1 agencies, and the public on how to implement  
2 the Act more effectively; and

3 “(C) to provide the President and the Con-  
4 gress with information that will be useful in de-  
5 veloping legislation to achieve the purposes of  
6 this Act more effectively.

7 “(2) CONSULTATION.—The Secretary shall  
8 plan, review, and conduct the national assessment  
9 under this subsection in consultation with research-  
10 ers, State practitioners, local practitioners, parents  
11 of children with disabilities, individuals with disabil-  
12 ities, and other appropriate individuals.

13 “(3) SCOPE OF ASSESSMENT.—The national as-  
14 sessment shall examine how well schools, local edu-  
15 cational agencies, States, other recipients of assist-  
16 ance under this Act, and the Secretary are achieving  
17 the purposes of this Act, including—

18 “(A) improving the performance of chil-  
19 dren with disabilities in general scholastic ac-  
20 tivities and assessments as compared to non-  
21 disabled children;

22 “(B) providing for the participation of chil-  
23 dren with disabilities in the general curriculum;

24 “(C) helping children with disabilities  
25 make successful transitions from—

1                   “(i) early intervention services to pre-  
2                   school education;

3                   “(ii) preschool education to elemen-  
4                   tary school; and

5                   “(iii) secondary school to adult life;

6                   “(D) placing and serving children with dis-  
7                   abilities, including minority children, in the  
8                   least restrictive environment appropriate;

9                   “(E) preventing children with disabilities,  
10                  especially children with emotional disturbances  
11                  and specific learning disabilities, from dropping  
12                  out of school;

13                  “(F) addressing behavioral problems of  
14                  children with disabilities as compared to non-  
15                  disabled children;

16                  “(G) coordinating services provided under  
17                  this Act with each other, with other educational  
18                  and pupil services (including preschool serv-  
19                  ices), and with health and social services funded  
20                  from other sources;

21                  “(H) providing for the participation of par-  
22                  ents of children with disabilities in the edu-  
23                  cation of their children; and

1           “(I) resolving disagreements between edu-  
2           cation personnel and parents through activities  
3           such as mediation.

4           “(4) INTERIM AND FINAL REPORTS.—The Sec-  
5           retary shall submit to the President and the Con-  
6           gress—

7           “(A) an interim report that summarizes  
8           the preliminary findings of the assessment not  
9           later than October 1, 1999; and

10           “(B) a final report of the findings of the  
11           assessment not later than October 1, 2001.

12           “(c) ANNUAL REPORT.—The Secretary shall report  
13           annually to the Congress on—

14           “(1) an analysis and summary of the data re-  
15           ported by the States and the Secretary of the Inte-  
16           rior under section 618;

17           “(2) the results of activities conducted under  
18           subsection (a);

19           “(3) the findings and determinations resulting  
20           from reviews of State implementation of this Act.

21           “(d) TECHNICAL ASSISTANCE TO LEAS.—The Sec-  
22           retary shall provide directly, or through grants, contracts,  
23           or cooperative agreements, technical assistance to local  
24           educational agencies to assist them in carrying out local  
25           capacity-building and improvement projects under section

1 611(f)(4) and other LEA systemic improvement activities  
2 under this Act.

3 “(e) RESERVATION FOR STUDIES AND TECHNICAL  
4 ASSISTANCE.—

5 “(1) IN GENERAL.—Except as provided in para-  
6 graph (2) and notwithstanding any other provision  
7 of this Act, the Secretary may reserve up to one-half  
8 of one percent of the amount appropriated under  
9 parts B and C for each fiscal year to carry out this  
10 section.

11 “(2) MAXIMUM AMOUNT.—For the first fiscal  
12 year in which the amount described in paragraph (1)  
13 is at least \$20,000,000, the maximum amount the  
14 Secretary may reserve under paragraph (1) is  
15 \$20,000,000. For each subsequent fiscal year, the  
16 maximum amount the Secretary may reserve under  
17 paragraph (1) is \$20,000,000, increased by the cu-  
18 mulative rate of inflation since the fiscal year de-  
19 scribed in the previous sentence.

20 “(3) USE OF MAXIMUM AMOUNT.—In any fiscal  
21 year described in paragraph (2) for which the Sec-  
22 retary reserves the maximum amount described in  
23 that paragraph, the Secretary shall use at least half  
24 of the reserved amount for activities under sub-  
25 section (d).

1 **“Chapter 2—Improving Early Intervention, Edu-**  
2 **catational, and Transitional Services and Results**  
3 **for Children With Disabilities Through Coordi-**  
4 **nated Technical Assistance, Support, and Dis-**  
5 **semination of Information**

6 **“SEC. 681. FINDINGS AND PURPOSES.**

7 “(a) IN GENERAL.—The Congress finds as follows:

8 “(1) National technical assistance, support, and  
9 dissemination activities are necessary to ensure that  
10 parts B and C are fully implemented and achieve  
11 quality early intervention, educational, and transi-  
12 tional results for children with disabilities and their  
13 families.

14 “(2) Parents, teachers, administrators, and re-  
15 lated services personnel need technical assistance  
16 and information in a timely, coordinated, and acces-  
17 sible manner in order to improve early intervention,  
18 educational, and transitional services and results at  
19 the State and local levels for children with disabil-  
20 ities and their families.

21 “(3) Parent training and information activities  
22 have taken on increased importance in efforts to as-  
23 sist parents of a child with a disability in dealing  
24 with the multiple pressures of rearing such a child  
25 and are of particular importance in—

1           “(A) ensuring the involvement of such par-  
2           ents in planning and decisionmaking with re-  
3           spect to early intervention, educational, and  
4           transitional services;

5           “(B) achieving quality early intervention,  
6           educational, and transitional results for children  
7           with disabilities;

8           “(C) providing such parents information  
9           on their rights and protections under this Act  
10          to ensure improved early intervention, edu-  
11          cational, and transitional results for children  
12          with disabilities;

13          “(D) assisting such parents in the develop-  
14          ment of skills to participate effectively in the  
15          education and development of their children and  
16          in the transitions described in section  
17          674(b)(3)(C); and

18          “(E) supporting the roles of such parents  
19          as participants within partnerships seeking to  
20          improve early intervention, educational, and  
21          transitional services and results for children  
22          with disabilities and their families.

23          “(4) Providers of parent training and informa-  
24          tion activities need to ensure that such parents who  
25          have limited access to services and supports, due to

1 economic, cultural, or linguistic barriers, are pro-  
2 vided with access to appropriate parent training and  
3 information activities.

4 “(5) Parents of children with disabilities need  
5 information that helps the parents to understand the  
6 rights and responsibilities of their children under  
7 part B.

8 “(6) The provision of coordinated technical as-  
9 sistance and dissemination of information to State  
10 and local agencies, institutions of higher education,  
11 and other providers of services to children with dis-  
12 abilities is essential in—

13 “(A) supporting the process of achieving  
14 systemic change;

15 “(B) supporting actions in areas of priority  
16 specific to the improvement of early interven-  
17 tion, educational, and transitional results for  
18 children with disabilities;

19 “(C) conveying information and assistance  
20 that are—

21 “(i) based on current research (as of  
22 the date the information and assistance  
23 are conveyed);

1                   “(ii) accessible and meaningful for use  
2                   in supporting systemic-change activities of  
3                   State and local partnerships; and

4                   “(iii) linked directly to improving  
5                   early intervention, educational, and transi-  
6                   tional services and results for children with  
7                   disabilities and their families; and

8                   “(D) organizing systems and information  
9                   networks for such information, based on mod-  
10                  ern technology related to—

11                  “(i) storing and gaining access to in-  
12                  formation; and

13                  “(ii) distributing information in a sys-  
14                  tematic manner to parents, students, pro-  
15                  fessionals, and policymakers.

16                  “(7) Federal support for carrying out tech-  
17                  nology research, technology development, and edu-  
18                  cational media services and activities has resulted in  
19                  major innovations that have significantly improved  
20                  early intervention, educational, and transitional serv-  
21                  ices and results for children with disabilities and  
22                  their families.

23                  “(8) Such Federal support is needed—

24                  “(A) to stimulate the development of soft-  
25                  ware, interactive learning tools, and devices to

1 address early intervention, educational, and  
2 transitional needs of children with disabilities  
3 who have certain disabilities;

4 “(B) to make information available on  
5 technology research, technology development,  
6 and educational media services and activities to  
7 individuals involved in the provision of early  
8 intervention, educational, and transitional serv-  
9 ices to children with disabilities;

10 “(C) to promote the integration of tech-  
11 nology into curricula to improve early interven-  
12 tion, educational, and transitional results for  
13 children with disabilities;

14 “(D) to provide incentives for the develop-  
15 ment of technology and media devices and tools  
16 that are not readily found or available because  
17 of the small size of potential markets;

18 “(E) to make resources available to pay for  
19 such devices and tools and educational media  
20 services and activities;

21 “(F) to promote the training of person-  
22 nel—

23 “(i) to provide such devices, tools,  
24 services, and activities in a competent  
25 manner; and

1                   “(ii) to assist children with disabilities  
2                   and their families in using such devices,  
3                   tools, services, and activities; and

4                   “(G) to coordinate the provision of such  
5                   devices, tools, services, and activities—

6                   “(i) among State human services pro-  
7                   grams; and

8                   “(ii) between such programs and pri-  
9                   vate agencies.

10           “(b) PURPOSES.—The purposes of this chapter are  
11 to ensure that—

12                   “(1) children with disabilities, and their par-  
13                   ents, receive training and information on their rights  
14                   and protections under this Act, in order to develop  
15                   the skills necessary to effectively participate in plan-  
16                   ning and decisionmaking relating to early interven-  
17                   tion, educational, and transitional services and in  
18                   systemic-change activities;

19                   “(2) parents, teachers, administrators, early  
20                   intervention personnel, related services personnel,  
21                   and transition personnel receive coordinated and ac-  
22                   cessible technical assistance and information to as-  
23                   sist such persons, through systemic-change activities  
24                   and other efforts, to improve early intervention, edu-

1       cational, and transitional services and results for  
2       children with disabilities and their families;

3           “(3) appropriate technology and media are re-  
4       searched, developed, demonstrated, and made avail-  
5       able in timely and accessible formats to parents,  
6       teachers, and all types of personnel providing serv-  
7       ices to children with disabilities to support their  
8       roles as partners in the improvement and implemen-  
9       tation of early intervention, educational, and transi-  
10      tional services and results for children with disabil-  
11      ities and their families;

12           “(4) on reaching the age of majority under  
13      State law, children with disabilities understand their  
14      rights and responsibilities under part B, if the State  
15      provides for the transfer of parental rights under  
16      section 615(m); and

17           “(5) the general welfare of deaf and hard-of-  
18      hearing individuals is promoted by—

19           “(A) bringing to such individuals under-  
20      standing and appreciation of the films and tele-  
21      vision programs that play an important part in  
22      the general and cultural advancement of hear-  
23      ing individuals;

24           “(B) providing, through those films and  
25      television programs, enriched educational and

1 cultural experiences through which deaf and  
2 hard-of-hearing individuals can better under-  
3 stand the realities of their environment; and

4 “(C) providing wholesome and rewarding  
5 experiences that deaf and hard-of-hearing indi-  
6 viduals may share.

7 **“SEC. 682. PARENT TRAINING AND INFORMATION CENTERS.**

8 “(a) PROGRAM AUTHORIZED.—The Secretary may  
9 make grants to, and enter into contracts and cooperative  
10 agreements with, parent organizations to support parent  
11 training and information centers to carry out activities  
12 under this section.

13 “(b) REQUIRED ACTIVITIES.—Each parent training  
14 and information center that receives assistance under this  
15 section shall—

16 “(1) provide training and information that  
17 meets the training and information needs of parents  
18 of children with disabilities living in the area served  
19 by the center, particularly underserved parents and  
20 parents of children who may be inappropriately iden-  
21 tified;

22 “(2) assist parents to understand the availabil-  
23 ity of, and how to effectively use, procedural safe-  
24 guards under this Act, including encouraging the  
25 use, and explaining the benefits, of alternative meth-

1       ods of dispute resolution, such as the mediation  
2       process described in section 615(e);

3               “(3) serve the parents of infants, toddlers, and  
4       children with the full range of disabilities;

5               “(4) assist parents to—

6                       “(A) better understand the nature of their  
7       children’s disabilities and their educational and  
8       developmental needs;

9                       “(B) communicate effectively with person-  
10      nel responsible for providing special education,  
11      early intervention, and related services;

12                      “(C) participate in decisionmaking proc-  
13      esses and the development of individualized  
14      education programs under part B and individ-  
15      ualized family service plans under part C;

16                      “(D) obtain appropriate information about  
17      the range of options, programs, services, and  
18      resources available to assist children with dis-  
19      abilities and their families;

20                      “(E) understand the provisions of this Act  
21      for the education of, and the provision of early  
22      intervention services to, children with disabil-  
23      ities; and

24                      “(F) participate in school reform activities;

1           “(5) in States where the State elects to contract  
2           with the parent training and information center,  
3           contract with State educational agencies to provide,  
4           consistent with subparagraphs (B) and (D) of sec-  
5           tion 615(e)(2), individuals who meet with parents to  
6           explain the mediation process to them;

7           “(6) network with appropriate clearinghouses,  
8           including organizations conducting national dissemi-  
9           nation activities under section 685(d), and with  
10          other national, State, and local organizations and  
11          agencies, such as protection and advocacy agencies,  
12          that serve parents and families of children with the  
13          full range of disabilities; and

14          “(7) annually report to the Secretary on—

15                 “(A) the number of parents to whom it  
16                 provided information and training in the most  
17                 recently concluded fiscal year; and

18                 “(B) the effectiveness of strategies used to  
19                 reach and serve parents, including underserved  
20                 parents of children with disabilities.

21          “(c) OPTIONAL ACTIVITIES.—A parent training and  
22          information center that receives assistance under this sec-  
23          tion may—

1           “(1) provide information to teachers and other  
2 professionals who provide special education and re-  
3 lated services to children with disabilities;

4           “(2) assist students with disabilities to under-  
5 stand their rights and responsibilities under section  
6 615(m) on reaching the age of majority; and

7           “(3) assist parents of children with disabilities  
8 to be informed participants in the development and  
9 implementation of the State’s State improvement  
10 plan under subpart 1.

11          “(d) APPLICATION REQUIREMENTS.—Each applica-  
12 tion for assistance under this section shall identify with  
13 specificity the special efforts that the applicant will under-  
14 take—

15           “(1) to ensure that the needs for training and  
16 information of underserved parents of children with  
17 disabilities in the area to be served are effectively  
18 met; and

19           “(2) to work with community-based organiza-  
20 tions.

21          “(e) DISTRIBUTION OF FUNDS.—

22           “(1) IN GENERAL.—The Secretary shall make  
23 at least 1 award to a parent organization in each  
24 State, unless the Secretary does not receive an appli-

1 cation from such an organization in each State of  
2 sufficient quality to warrant approval.

3 “(2) SELECTION REQUIREMENT.—The Sec-  
4 retary shall select among applications submitted by  
5 parent organizations in a State in a manner that en-  
6 sures the most effective assistance to parents, in-  
7 cluding parents in urban and rural areas, in the  
8 State.

9 “(f) QUARTERLY REVIEW.—

10 “(1) REQUIREMENTS.—

11 “(A) MEETINGS.—The board of directors  
12 or special governing committee of each organi-  
13 zation that receives an award under this section  
14 shall meet at least once in each calendar quar-  
15 ter to review the activities for which the award  
16 was made.

17 “(B) ADVISING BOARD.—Each special gov-  
18 erning committee shall directly advise the orga-  
19 nization’s governing board of its views and rec-  
20 ommendations.

21 “(2) CONTINUATION AWARD.—When an organi-  
22 zation requests a continuation award under this sec-  
23 tion, the board of directors or special governing com-  
24 mittee shall submit to the Secretary a written review  
25 of the parent training and information program con-

1 ducted by the organization during the preceding fis-  
2 cal year.

3 “(g) DEFINITION OF PARENT ORGANIZATION.—As  
4 used in this section, the term ‘parent organization’ means  
5 a private nonprofit organization (other than an institution  
6 of higher education) that—

7 “(1) has a board of directors—

8 “(A) the majority of whom are parents of  
9 children with disabilities;

10 “(B) that includes—

11 “(i) individuals working in the fields  
12 of special education, related services, and  
13 early intervention; and

14 “(ii) individuals with disabilities; and

15 “(C) the parent and professional members  
16 of which are broadly representative of the popu-  
17 lation to be served; or

18 “(2) has—

19 “(A) a membership that represents the in-  
20 terests of individuals with disabilities and has  
21 established a special governing committee that  
22 meets the requirements of paragraph (1); and

23 “(B) a memorandum of understanding be-  
24 tween the special governing committee and the  
25 board of directors of the organization that

1 clearly outlines the relationship between the  
2 board and the committee and the decisionmak-  
3 ing responsibilities and authority of each.

4 **“SEC. 683. COMMUNITY PARENT RESOURCE CENTERS.**

5 “(a) IN GENERAL.—The Secretary may make grants  
6 to, and enter into contracts and cooperative agreements  
7 with, local parent organizations to support parent training  
8 and information centers that will help ensure that under-  
9 served parents of children with disabilities, including low-  
10 income parents, parents of children with limited English  
11 proficiency, and parents with disabilities, have the training  
12 and information they need to enable them to participate  
13 effectively in helping their children with disabilities—

14 “(1) to meet developmental goals and, to the  
15 maximum extent possible, those challenging stand-  
16 ards that have been established for all children; and

17 “(2) to be prepared to lead productive inde-  
18 pendent adult lives, to the maximum extent possible.

19 “(b) REQUIRED ACTIVITIES.—Each parent training  
20 and information center assisted under this section shall—

21 “(1) provide training and information that  
22 meets the training and information needs of parents  
23 of children with disabilities proposed to be served by  
24 the grant, contract, or cooperative agreement;

1           “(2) carry out the activities required of parent  
2 training and information centers under paragraphs  
3 (2) through (7) of section 682(b);

4           “(3) establish cooperative partnerships with the  
5 parent training and information centers funded  
6 under section 682; and

7           “(4) be designed to meet the specific needs of  
8 families who experience significant isolation from  
9 available sources of information and support.

10          “(c) DEFINITION.—As used in this section, the term  
11 ‘local parent organization’ means a parent organization,  
12 as defined in section 682(g), that either—

13           “(1) has a board of directors the majority of  
14 whom are from the community to be served; or

15           “(2) has—

16           “(A) as a part of its mission, serving the  
17 interests of individuals with disabilities from  
18 such community; and

19           “(B) a special governing committee to ad-  
20 minister the grant, contract, or cooperative  
21 agreement, a majority of the members of which  
22 are individuals from such community.

1 **“SEC. 684. TECHNICAL ASSISTANCE FOR PARENT TRAINING**  
2 **AND INFORMATION CENTERS.**

3 “(a) IN GENERAL.—The Secretary may, directly or  
4 through awards to eligible entities, provide technical as-  
5 sistance for developing, assisting, and coordinating parent  
6 training and information programs carried out by parent  
7 training and information centers receiving assistance  
8 under sections 682 and 683.

9 “(b) AUTHORIZED ACTIVITIES.—The Secretary may  
10 provide technical assistance to a parent training and infor-  
11 mation center under this section in areas such as—

12 “(1) effective coordination of parent training ef-  
13 forts;

14 “(2) dissemination of information;

15 “(3) evaluation by the center of itself;

16 “(4) promotion of the use of technology, includ-  
17 ing assistive technology devices and assistive tech-  
18 nology services;

19 “(5) reaching underserved populations;

20 “(6) including children with disabilities in gen-  
21 eral education programs;

22 “(7) facilitation of transitions from—

23 “(A) early intervention services to pre-  
24 school;

25 “(B) preschool to school; and

1                   “(C) secondary school to postsecondary en-  
2                   vironments; and

3                   “(8) promotion of alternative methods of dis-  
4                   pute resolution.

5 **“SEC. 685. COORDINATED TECHNICAL ASSISTANCE AND**  
6 **DISSEMINATION.**

7                   “(a) IN GENERAL.—The Secretary shall, by competi-  
8                   tively making grants or entering into contracts and coop-  
9                   erative agreements with eligible entities, provide technical  
10                  assistance and information, through such mechanisms as  
11                  institutes, Regional Resource Centers, clearinghouses, and  
12                  programs that support States and local entities in building  
13                  capacity, to improve early intervention, educational, and  
14                  transitional services and results for children with disabil-  
15                  ities and their families, and address systemic-change goals  
16                  and priorities.

17                  “(b) SYSTEMIC TECHNICAL ASSISTANCE; AUTHOR-  
18                  IZED ACTIVITIES.—

19                  “(1) IN GENERAL.—In carrying out this sec-  
20                  tion, the Secretary shall carry out or support tech-  
21                  nical assistance activities, consistent with the objec-  
22                  tives described in subsection (a), relating to systemic  
23                  change.

1           “(2) AUTHORIZED ACTIVITIES.—Activities that  
2           may be carried out under this subsection include ac-  
3           tivities such as the following:

4                   “(A) Assisting States, local educational  
5                   agencies, and other participants in partnerships  
6                   established under subpart 1 with the process of  
7                   planning systemic changes that will promote  
8                   improved early intervention, educational, and  
9                   transitional results for children with disabilities.

10                   “(B) Promoting change through a  
11                   multistate or regional framework that benefits  
12                   States, local educational agencies, and other  
13                   participants in partnerships that are in the  
14                   process of achieving systemic-change outcomes.

15                   “(C) Increasing the depth and utility of in-  
16                   formation in ongoing and emerging areas of pri-  
17                   ority need identified by States, local educational  
18                   agencies, and other participants in partnerships  
19                   that are in the process of achieving systemic-  
20                   change outcomes.

21                   “(D) Promoting communication and infor-  
22                   mation exchange among States, local edu-  
23                   cational agencies, and other participants in  
24                   partnerships, based on the needs and concerns  
25                   identified by the participants in the partner-

1           ships, rather than on externally imposed criteria  
2           or topics, regarding—

3                   “(i) the practices, procedures, and  
4                   policies of the States, local educational  
5                   agencies, and other participants in part-  
6                   nerships; and

7                   “(ii) accountability of the States, local  
8                   educational agencies, and other partici-  
9                   pants in partnerships for improved early  
10                  intervention, educational, and transitional  
11                  results for children with disabilities.

12          “(c) SPECIALIZED TECHNICAL ASSISTANCE; AU-  
13 THORIZED ACTIVITIES.—

14                  “(1) IN GENERAL.—In carrying out this sec-  
15                  tion, the Secretary shall carry out or support activi-  
16                  ties, consistent with the objectives described in sub-  
17                  section (a), relating to areas of priority or specific  
18                  populations.

19                  “(2) AUTHORIZED ACTIVITIES.—Examples of  
20                  activities that may be carried out under this sub-  
21                  section include activities that—

22                          “(A) focus on specific areas of high-prior-  
23                          ity need that—

1           “(i) are identified by States, local edu-  
2           cational agencies, and other participants in  
3           partnerships;

4           “(ii) require the development of new  
5           knowledge, or the analysis and synthesis of  
6           substantial bodies of information not read-  
7           ily available to the States, agencies, and  
8           other participants in partnerships; and

9           “(iii) will contribute significantly to  
10          the improvement of early intervention, edu-  
11          cational, and transitional services and re-  
12          sults for children with disabilities and their  
13          families;

14          “(B) focus on needs and issues that are  
15          specific to a population of children with disabil-  
16          ities, such as the provision of single-State and  
17          multi-State technical assistance and in-service  
18          training—

19                 “(i) to schools and agencies serving  
20                 deaf-blind children and their families; and

21                 “(ii) to programs and agencies serving  
22                 other groups of children with low-incidence  
23                 disabilities and their families; or

1           “(C) address the postsecondary education  
2           needs of individuals who are deaf or hard of  
3           hearing.

4           “(d) NATIONAL INFORMATION DISSEMINATION; AU-  
5 THORIZED ACTIVITIES.—

6           “(1) IN GENERAL.—In carrying out this sec-  
7           tion, the Secretary shall carry out or support infor-  
8           mation dissemination activities that are consistent  
9           with the objectives described in subsection (a), in-  
10          cluding activities that address national needs for the  
11          preparation and dissemination of information relat-  
12          ing to eliminating barriers to systemic-change and  
13          improving early intervention, educational, and tran-  
14          sitional results for children with disabilities.

15          “(2) AUTHORIZED ACTIVITIES.—Examples of  
16          activities that may be carried out under this sub-  
17          section include activities relating to—

18                 “(A) infants and toddlers with disabilities  
19                 and their families, and children with disabilities  
20                 and their families;

21                 “(B) services for populations of children  
22                 with low-incidence disabilities, including deaf-  
23                 blind children, and targeted age groupings;

24                 “(C) the provision of postsecondary serv-  
25                 ices to individuals with disabilities;

1           “(D) the need for and use of personnel to  
2           provide services to children with disabilities,  
3           and personnel recruitment, retention, and prep-  
4           aration;

5           “(E) issues that are of critical interest to  
6           State educational agencies and local educational  
7           agencies, other agency personnel, parents of  
8           children with disabilities, and individuals with  
9           disabilities;

10          “(F) educational reform and systemic  
11          change within States; and

12          “(G) promoting schools that are safe and  
13          conducive to learning.

14          “(3) LINKING STATES TO INFORMATION  
15          SOURCES.—In carrying out this subsection, the Sec-  
16          retary may support projects that link States to tech-  
17          nical assistance resources, including special edu-  
18          cation and general education resources, and may  
19          make research and related products available  
20          through libraries, electronic networks, parent train-  
21          ing projects, and other information sources.

22          “(e) APPLICATIONS.—An eligible entity that wishes  
23          to receive a grant, or enter into a contract or cooperative  
24          agreement, under this section shall submit an application

1 to the Secretary at such time, in such manner, and con-  
2 taining such information as the Secretary may require.

3 **“SEC. 686. AUTHORIZATION OF APPROPRIATIONS.**

4 “There are authorized to be appropriated to carry out  
5 sections 681 through 685 such sums as may be necessary  
6 for each of the fiscal years 1998 through 2002.

7 **“SEC. 687. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**  
8 **AND UTILIZATION, AND MEDIA SERVICES.**

9 “(a) IN GENERAL.—The Secretary shall competi-  
10 tively make grants to, and enter into contracts and cooper-  
11 ative agreements with, eligible entities to support activities  
12 described in subsections (b) and (c).

13 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-  
14 TION, AND UTILIZATION; AUTHORIZED ACTIVITIES.—

15 “(1) IN GENERAL.—In carrying out this sec-  
16 tion, the Secretary shall support activities to pro-  
17 mote the development, demonstration, and utiliza-  
18 tion of technology.

19 “(2) AUTHORIZED ACTIVITIES.—Activities that  
20 may be carried out under this subsection include ac-  
21 tivities such as the following:

22 “(A) Conducting research and development  
23 activities on the use of innovative and emerging  
24 technologies for children with disabilities.

1           “(B) Promoting the demonstration and use  
2 of innovative and emerging technologies for  
3 children with disabilities by improving and ex-  
4 panding the transfer of technology from re-  
5 search and development to practice.

6           “(C) Providing technical assistance to re-  
7 cipients of other assistance under this section,  
8 concerning the development of accessible, effec-  
9 tive, and usable products.

10          “(D) Communicating information on avail-  
11 able technology and the uses of such technology  
12 to assist children with disabilities.

13          “(E) Supporting the implementation of re-  
14 search programs on captioning or video descrip-  
15 tion.

16          “(F) Supporting research, development,  
17 and dissemination of technology with universal-  
18 design features, so that the technology is acces-  
19 sible to individuals with disabilities without fur-  
20 ther modification or adaptation.

21          “(G) Demonstrating the use of publicly-  
22 funded telecommunications systems to provide  
23 parents and teachers with information and  
24 training concerning early diagnosis of, interven-

1           tion for, and effective teaching strategies for,  
2           young children with reading disabilities.

3           “(c) EDUCATIONAL MEDIA SERVICES; AUTHORIZED  
4 ACTIVITIES.—In carrying out this section, the Secretary  
5 shall support—

6           “(1) educational media activities that are de-  
7 signed to be of educational value to children with  
8 disabilities;

9           “(2) providing video description, open caption-  
10 ing, or closed captioning of television programs, vid-  
11 eos, or educational materials through September 30,  
12 2001; and after fiscal year 2001, providing video de-  
13 scription, open captioning, or closed captioning of  
14 educational, news, and informational television, vid-  
15 eos, or materials;

16           “(3) distributing captioned and described videos  
17 or educational materials through such mechanisms  
18 as a loan service;

19           “(4) providing free educational materials, in-  
20 cluding textbooks, in accessible media for visually  
21 impaired and print-disabled students in elementary,  
22 secondary, postsecondary, and graduate schools;

23           “(5) providing cultural experiences through ap-  
24 propriate nonprofit organizations, such as the Na-  
25 tional Theater of the Deaf, that—

1           “(A) enrich the lives of deaf and hard-of-  
2           hearing children and adults;

3           “(B) increase public awareness and under-  
4           standing of deafness and of the artistic and in-  
5           tellectual achievements of deaf and hard-of-  
6           hearing persons; or

7           “(C) promote the integration of hearing,  
8           deaf, and hard-of-hearing persons through  
9           shared cultural, educational, and social experi-  
10          ences; and

11          “(6) compiling and analyzing appropriate data  
12          relating to the activities described in paragraphs (1)  
13          through (5).

14          “(d) APPLICATIONS.—Any eligible entity that wishes  
15          to receive a grant, or enter into a contract or cooperative  
16          agreement, under this section shall submit an application  
17          to the Secretary at such time, in such manner, and con-  
18          taining such information as the Secretary may require.

19          “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
20          are authorized to be appropriated to carry out this section  
21          such sums as may be necessary for each of the fiscal years  
22          1998 through 2002.”.

1           **TITLE II—MISCELLANEOUS**  
2                           **PROVISIONS**

3 **SEC. 201. EFFECTIVE DATES.**

4           (a) PARTS A AND B.—

5                   (1) IN GENERAL.—Except as provided in para-  
6           graph (2), parts A and B of the Individuals with  
7           Disabilities Education Act, as amended by title I,  
8           shall take effect upon the enactment of this Act.

9                   (2) EXCEPTIONS.—

10                   (A) IN GENERAL.—Sections 612(a)(4),  
11                   612(a)(14), 612(a)(16), 614(d) (except for  
12                   paragraph (6)), and 618 of the Individuals with  
13                   Disabilities Education Act, as amended by title  
14                   I, shall take effect on July 1, 1998.

15                   (B) SECTION 617.—Section 617 of the In-  
16                   dividuals with Disabilities Education Act, as  
17                   amended by title I, shall take effect on October  
18                   1, 1997.

19                   (C) INDIVIDUALIZED EDUCATION PRO-  
20                   GRAMS AND COMPREHENSIVE SYSTEM OF PER-  
21                   SONNEL DEVELOPMENT.—Section 618 of the  
22                   Individuals with Disabilities Education Act, as  
23                   in effect on the day before the date of the en-  
24                   actment of this Act, and the provisions of parts  
25                   A and B of the Individuals with Disabilities

1 Education Act relating to individualized edu-  
2 cation programs and the State's comprehensive  
3 system of personnel development, as so in ef-  
4 fect, shall remain in effect until July 1, 1998.

5 (D) SECTIONS 611 AND 619.—Sections 611  
6 and 619, as amended by title I, shall take effect  
7 beginning with funds appropriated for fiscal  
8 year 1998.

9 (b) PART C.—Part C of the Individuals with Disabil-  
10 ities Education Act, as amended by title I, shall take effect  
11 on July 1, 1998.

12 (c) PART D.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2), part D of the Individuals with Disabilities  
15 Education Act, as amended by title I, shall take ef-  
16 fect on October 1, 1997.

17 (2) EXCEPTION.—Paragraphs (1) and (2) of  
18 section 661(g) of the Individuals with Disabilities  
19 Education Act, as amended by title I, shall take ef-  
20 fect on January 1, 1998.

21 **SEC. 202. TRANSITION.**

22 Notwithstanding any other provision of law, begin-  
23 ning on October 1, 1997, the Secretary of Education may  
24 use funds appropriated under part D of the Individuals  
25 with Disabilities Education Act to make continuation

1 awards for projects that were funded under section 618  
2 and parts C through G of such Act (as in effect on Sep-  
3 tember 30, 1997).

4 **SEC. 203. REPEALERS.**

5 (a) PART I.—Effective October 1, 1998, part I of the  
6 Individuals with Disabilities Education Act is hereby re-  
7 pealed.

8 (b) PART H.—Effective July 1, 1998, part H of such  
9 Act is hereby repealed.

10 (c) PARTS C, E, F, AND G.—Effective October 1,  
11 1997, parts C, E, F, and G of such Act are hereby re-  
12 pealed.

Passed the House of Representatives May 13, 1997.

Attest:

ROBIN H. CARLE,

*Clerk.*