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1ST SESSION

H. R. 5

IN THE SENATE OF THE UNITED STATES

MAY 13, 1997

Received

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 disabili-
16 ties 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 disabil-
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 disabili-
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 disabil-
10 ities 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 reallocate, 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 disabili-
12 ties;

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 disabil-
10 ities, 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 **catinal, 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
9 “(B) by promoting the coordination and integration of—

10
11 “(i) personnel-development activities for teachers of children with disabilities;

12
13 and
14 “(ii) other personnel-development activities supported under Federal law, including this chapter;

15
16
17 “(C) by supporting the development and dissemination of information about teaching standards; and

18
19
20 “(D) by promoting the coordination and integration of personnel-development activities through linkage with systemic-change activities within States and nationally.

21
22
23
24 “(b) PURPOSE.—The purpose of this chapter is to
25 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 **catinal, 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.